

The Gazette



of India

PUBLISHED BY AUTHORITY

No. 25] NEW DELHI, SATURDAY, AUGUST 2, 1958/SRAVANA 11, 1880

NOTICE

The undermentioned Gazettes of India Extraordinary were published up to the 24th July 1958:—

| Issue No. | No. and date] | Issued by | Subject |
|-----------|---|------------------------------------|---|
| 134-A | S. O. 1440-A, dated the 18th July 1958. | Ministry of Commerce and Industry. | Declaration regarding entrance into any forward contract for the sale or purchase of Khandsari sugar. |
| 136 | S. O. 1446 to S. O. 1450, dated the 21st July 1958. | Election Commission, India. | Notifications regarding election to fill a vacancy in the seat allotted to the State of Uttar Pradesh in the Council of States. |
| 137 | S. O. 1451, dated the 17th July 1958. | Ditto | Election Appeal from Original Decree No. 143 of 1957. |
| 138 | S. O. 1452 to S. O. 1454, dated the 23rd July 1958. | Ditto | Notifications regarding election to the Delhi Electoral College. |
| 139 | S. O. 1502, dated the 24th July 1958. | Ditto | Method of Voting by marking the ballot paper to be followed in the election to the Delhi Electoral College. |
| 140 | S.O. 1503, dated the 2nd July 1958. | Ditto | Election Petition No. 437 of 1957. |

Copies of the Gazettes Extraordinary mentioned above will be supplied on demand to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 21st July 1958

S.O. 1512.—In pursuance of sub-rule (4) of rule 134 of the Representation of People (Conduct of Elections and Election Petitions) Rules, 1956, the Election

Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the bye-election held in 1958 has, in accordance with the decision given today by the Election Commission under sub-rule (3) of the said rule, failed to lodge any account of his election expenses and will accordingly become subject to the disqualification under clause (c) of section 7 of the representation of the People Act, 1951 (Act 43 of 1951) on the expiration of two months from the date of the said decision.

SCHEDULE

| Name of contesting candidate | Name of constituency |
|---|----------------------|
| 1 | 2 |
| Shri Mangal Dev Sharma, Teachers Quarters, Jama Masjid Dispensary Delhi. | Gurgaon |

[No. PB-P/268/58/Bye(214)/10734.]

By order,

A. S. NADKARNI, Under Secy.

MINISTRY OF LAW

New Delhi, the 26th July 1958

S.O. 1513.—In exercise of the powers conferred by clause (1) of article 299 of the Constitution, the President hereby directs that the lease deeds relating to the buildings hired for use as hostels attached to the Medical College, Pondicherry, shall be executed on his behalf by the Principal, Medical College, Pondicherry.

[No. F.44(7)/58-J.]

P. K. BOSE, Dy. Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 25th July 1958

S.O. 1514.—In exercise of the powers conferred by sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby directs that the following amendments shall be made in the Schedule to the notification of the Government of India in the Ministry of Home Affairs No. S.R.O. 628 dated the 28th February 1957, namely :—

In the said Schedule—

- (1) in Part II—General Central Service, Class III, for the heading "Intelligence Bureau", sub-headings "Headquarters Office" "Offices of Central Intelligence Officers" and "Subsidiary Intelligence Bureaus" and all the entries relating thereto, the following heading, sub-headings and entries shall be substituted, namely :—

| 1 | 2 | 3 | 4 | 5 |
|---|----------------------------------|----------------------------------|-----------|---------------------------|
| <i>Intelligence Bureau.</i> | | | | |
| All posts at Headquarters and all offices under Intelligence Bureau other than those specified below. | Deputy Director (Establishment). | Deputy Director (Establishment). | All Joint | Director (Establishment). |

| I | 2 | 3 | 4 | 5 |
|---|--|--|-----|--|
| Central Intelligence Officers Organisation : All posts . . . | Central Intelligence Officer. | Central Intelligence Officer. | All | Deputy Director (Establishment). |
| Subsidiary Intelligence Bureau : All Posts . . . | Deputy Director, Subsidiary Intelligence Bureau. | Deputy Director, Subsidiary Intelligence Bureau. | All | Joint Director (Establishment). |
| Forensic Laboratory : All posts . . . | Director, Forensic Laboratory. | Director, Forensic Laboratory. | All | Commandant, Central Forensic Institutes. |
| Central Detective Training School : All posts . . . | Principal, Central Detective Training School. | Principal, Central Detective Training School. | All | Commandant, Central Forensic Institutes. |
| Finger Print Bureau : All posts . . . | Superintendent of Police Incharge. | Superintendent of Police Incharge. | All | Commandant, Central Forensic Institutes. |
| Government Examiner of Questioned Documents. All Posts . . . | Government Examiner of Questioned Documents. | Government Examiner of Questioned Documents. | All | Deputy Director, (Establishment). |

(2) in Part III—General Central Service, Class IV, for the heading “Intelligence Bureau”, sub-headings “Headquarters Office”, “Offices of Central Intelligence Officers” and “Subsidiary Intelligence Bureaus” and all the entries relating thereto, the following heading, sub-headings and entries shall be substituted, namely :—

| I | 2 | 3 | 4 | 5 |
|---|---|---|-----|--|
| <i>Intelligence Bureau.</i> | | | | |
| All posts at Headquarters and all offices under Intelligence Bureau other than those specified below. | Administrative Officer. | Administrative Officer. | All | Deputy Director (Establishment). |
| Subsidiary Intelligence Bureau : All posts | Assistant Director, Subsidiary Intelligence Bureau. | Assistant Director, Subsidiary Intelligence Bureau. | All | Deputy Director, Subsidiary Intelligence Bureau. |
| Central Intelligence Officers' Organisation : All posts . . . | Central Intelligence Officer. | Central Intelligence Officer. | All | Deputy Director (Establishment) |
| Forensic Laboratory : All posts . . . | Director, Forensic Laboratory. | Director, Forensic Laboratory. | All | Commandant, Central Forensic Institutes. |

| 1 | 2 | 3 | 4 | 5 |
|-------------------------------------|---|---|-----|--|
| <hr/> | | | | |
| Central Detective Training School : | | | | |
| All posts | Principal, Central Detective Training School. | Principal, Central Detective Training School. | All | Commandant, Central Forensic Institutes. |
| Finger Print Bureau : | | | | |
| All posts | Superintendent of Police Incharge. | Superintendent of Police Incharge. | All | Commandant, Central Forensic Institutes. |

[No. 15/3/58-V.]

T. C. A. RAMANUJACHARI, Dy. Secy.

MINISTRY OF EXTERNAL AFFAIRS*New Delhi, the 28th July 1958*

S.O. 1515.—In exercise of the powers conferred by Clause (a) of section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby rescinds the notification of the Government of India in the Ministry of External Affairs, S.R.O. No. 287, dated 15th January, 1958.

[No. 17-Con/58.]

S. N. SHEOPORI, Under Secy.

MINISTRY OF FINANCE.
(Department of Economic Affairs)
New Delhi, the 24th July 1958

S.O. 1516.—Statement on the Affairs of the Reserve Bank of India, as on 18th July 1958.
BANKING DEPARTMENT

| LIABILITIES | Rs. | ASSETS | Rs. |
|--|---------------|---|---------------|
| Capital paid up | 5,00,00,000 | Notes | 27,71,72,000 |
| Reserve Fund | 80,00,00,000 | Rupee Coin | 1,95,000 |
| National Agricultural Credit (Long-Term Operations) Fund | 25,00,00,000 | Subsidiary Coin | 2,56,000 |
| | | Bills Purchased and Discounted :— | |
| National Agricultural Credit (Stabilisation) Fund | 3,00,00,000 | (a) Internal | .. |
| Deposits :— | | (b) External | .. |
| (a) Government | | (c) Government Treasury Bills | 2,93,00,000 |
| (i) Central Government | 51,06,99,000 | Balances held abroad* | 10,50,97,000 |
| (2) Other Governments | 41,79,31,000 | **Loans and Advances to Governments | 19,24,81,00 |
| (b) Banks | 94,45,99,000 | Other Loans and Advances † | 61,68,19,000 |
| (c) Others | 147,29,25,000 | Investments | 363,15,42,000 |
| Bills Payable | 42,17,65,000 | Other Assets | 13,22,99,000 |
| Other Liabilities | 8,72,42,000 | | |
| Rupees | 498,51,61,000 | Rupees | 498,51,61,000 |

*Includes Cash & Short term Securities.

**Includes Temporary Overdrafts to State Governments.

†The Item 'Other Loans and Advances' includes Rs. 12.63,37,000/- advanced to scheduled banks against usance bills under Section 17(4) (c) of the Reserve Bank of India Act.

ISSUE DEPARTMENT

| LIABILITIES | Rs. | Rs. | ASSETS | Rs. | Rs. |
|--|----------------|----------------|---|---------------|----------------|
| Notes held in the Banking Department | 27,71,72,000 | | A. Gold Coin and Bullion | | |
| Notes in circulation | 1557,66,03,000 | | (a) Held in India | 117,76,03,000 | |
| TOTAL NOTES ISSUED | | 1585,37,75,000 | (b) Held outside India | .. | |
| | | | Foreign Securities | 189,67,56,000 | |
| | | | TOTAL OF A | | 307,43,59,000 |
| | | | B. Rupee Coin | | 133,35,63,000 |
| | | | Government of India Rupee Securities | | 1144,58,53,000 |
| | | | Internal Bills of Exchange and other commercial paper | | .. |
| TOTAL LIABILITIES | | 1585,37,75,000 | TOTAL ASSETS | | 1585,37,75,000 |

Dated the 23rd day of July 1958.

H. V. R. IENGER, Governor.

[No. F. 3 (2)-F. 1/58.]

A. BAKSI, Joint Secy.

(Department of Revenue)

INCOME-TAX

New Delhi, the 25th July 1958

S.O. 1517.—In exercise of the powers conferred by Rule 17 of the Income-tax Allowances (Current Profits Deposit) Rules, 1957, the Central Government hereby rescinds its notification No. S.R.O. 2112, dated the 29th June, 1957 constituting a Board of Referees.

[No. 69-IT/58.]

N. H. NAQVI, Dy. Secy.

(Department of Revenue)

CUSTOMS

New Delhi, the 2nd August 1958

S.O. 1518.—In exercise of the powers conferred by section 6 of the Sea Customs Act, 1878 (8 of 1878), the Central Government is pleased to appoint, with effect from the 30th January, 1958, the Deputy Collector of Customs at the port of Calcutta to be a Customs Collector and directs that the following further amendment shall be made in the Notification of the Government of India in the Ministry of Finance No. 5-Cus. dated the 18th January, 1952, namely:—

In the schedule to the said notification, in column 3 against Sl. No. 1, the existing entry shall be renumbered as entry (ii) and before the entry as so renumbered, the following shall be inserted, namely:—

- (1) "The Deputy Collector of Customs, Calcutta".

[No. 221-F. No. 22/15/58-Cus. IV.]

M. A. RANGASWAMY, Dy. Secy.

(Department of Revenue)

ORDERS

STAMPS

New Delhi, the 21st July 1958

S.O. 1519.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty chargeable under the said Act on the lease deed to be executed in favour of the Embassy of Sudan in India in respect of plot No. 3-A, measuring about 5.980 acres, in Block No. 50-G, Chanakyapuri, New Delhi.

[No. 23.]

New Delhi, the 24th July 1958

S.O. 1520.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the lease deed to be executed by the Embassy of Czechoslovak Republic in India in respect of premises No. 62, Golf Links, New Delhi, is chargeable under the said Act.

[No. 24.]

New Delhi, the 25th July 1958

S.O. 1521.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the lease deed to be executed by the Commercial Counsellor of the Legation of the Hungarian People's Republic in India in respect of building No. 137-B, Golf Links Area, New Delhi, is chargeable under the said Act.

[No. 25.]

B. B. GUJRAL, Under Secy.

(Department of Revenue)**CORRIGENDUM****CUSTOMS***New Delhi, the 26th July 1958*

S.O. 1522.—In the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 161-Customs, dated the 17th May, 1958, published as S.O. 880 in the Gazette of India, Part II, Section 3, sub-section (ii) of the 24th May, 1958 for "23rd" occurring in line 5 read "27th".

[No. 219.]

M. C. DAS, Dy. Secy.

COLLECTORATE OF CENTRAL EXCISE, CALCUTTA**CENTRAL EXCISE***Calcutta, the 15th July 1958*

S.O. 1523.—In supersession of this Collectorate Central Excise Notification No. 10/1958, dated 3rd June 1958/Saka 13 Jaistha, 1880, I hereby empower all officers of the Central Excise Collectorate, Calcutta, not below the rank of Supervisor for purposes of rules 197, 199 and 200 of the Central Excise Rules, 1944.

[No. 13/1958.]

S. C. MATHUR, Collector.

CENTRAL BOARD OF REVENUE**INCOME-TAX***New Delhi, the 23rd July 1958*

S.O. 1524.—In exercise of the powers conferred by sub-section (4) of Section 5 of the Indian Income-tax, 1922 (11 of 1922) the Central Board of Revenue hereby makes the following amendments in the Schedule appended to its notification No. S.O. 660 dated the 22nd April 1958:—

In the said Schedule under the sub-head IX Madhya Pradesh and the Districts of Nagpur and Bhandara, against:—

(a) NAGPUR

After the existing entry "19.C-Ward, Raipur" the following entries shall be added, namely:—

20. Special Circle-III, Nagpur.

21. Special Circle-IV, Nagpur.

(b) JABALPUR

For the existing entry "7. Bhopal" the following entry shall be substituted, namely:—

7. A & B Wards, Bhopal.

Explanatory Note

Note:—The amendments have become necessary due to the creation of new Income-tax Circles in the Charge of Commissioner of Income-tax, Madhya Pradesh

(This note does not form a part of the notification, but is intended to be merely clarificatory).

[No. 68(F.No. 50/26/58-IT)]

B. V. MUNDKUR, Under Secy

New Delhi, the 29th July 1958

S.O. 1525.—In exercise of the powers conferred by sub-section (2) of section 5 of the Indian Income-Tax Act, 1922 (11 of 1922) and in partial modification of all previous notifications on the subject the Central Board of Revenue hereby directs that with effect from 19th July 1958 (afternoon) Shri Jamuna Prasad Singh a Commissioner of Income-tax, shall perform all the functions of Commissioner of Income-tax in respect of such areas or of such persons or classes of persons or such incomes or classes of incomes or such cases or classes of cases as are comprised in the Income-tax Circles, Wards or Districts in the State of Mysore:

Provided that he shall also perform his functions in respect of such persons or of such cases as have been or may be assigned by the Central Board of Revenue to any Income-tax Authority subordinate to him:

Provided further that he shall not perform his functions in respect of such persons or such cases as have been or may be assigned to any income-tax Authority outside his jurisdictional area.

While performing the said functions the said Shri Jamuna Prasad Singh shall be designated as the Commissioner of Income-tax, Mysore with headquarters at Bangalore.

Explanatory Note

Note.—The amendments have become necessary on account of the change in the incumbent of the Commissioner's charge.

(This note does not form a part of the notification but is intended to be merely clarificatory).

[No. 70 (F. No. 53/23/58-IT).]

B.V. MUNDKUR, Under Secy.

LAND CUSTOMS

New Delhi, the 26th July 1958

S.O. 1526.—In exercise of the powers conferred by Sub-section (1) of Section 3 of the Land Customs Act, 1924 (19 of 1924) read with the notification of the Government of India in the late Finance Department (Central Revenues), No. 5944, dated the 13th December, 1924, the Central Board of Revenue hereby appoints the Assistant Collector of Customs in the Central Excise Collectorate, Delhi to be Land Customs Officer within the jurisdiction of the Collector of Land Customs, Delhi.

[No. 11.]

CUSTOMS

New Delhi, the 2nd August 1958

S.O. 1527.—In exercise of the powers conferred by section 9 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Board of Revenue hereby makes the following rules prescribing and limiting the powers and duties of the officers of Customs in the State of Mysore, namely:—

RULES

1. The Collector of Central Excise, Mysore, shall be competent to exercise within his jurisdiction all or any of the powers conferred, and to perform all or any of the duties imposed, upon the *Chief Customs Officer* or the Customs Collector by the Act.
2. The Assistant Collector of Central Excise, Mysore Division shall exercise, subject to the orders of the Collector of Central Excise, Mysore, the powers of the Customs Collector in respect of, and shall have control over all the ports in South Kanara District in his Division concurrently with the officer in charge of Central Excise Circle, Mangalore, in his Division.
3. At out ports, the duties imposed by the Act upon the Customs Collector will be performed by the Customs Collector who is incharge of the Ports. The Superintendent incharge of the Central Excise Circle,

Mangalore, shall perform concurrently with the *Customs Collector incharge of all Ports* within his Circle all the duties of such Customs Collectors.

4. The powers of the Assistant Collectors of Central Excise to adjudge confiscations and impose penalties shall ordinarily be limited to those indicated in clause (b) of section 182 of the Sea Customs Act. The powers granted to the Superintendent of Central Excise incharge of Mangalore Circle and to Customs Collectors incharge of Ports within such Circle to adjudge confiscation and to impose penalties shall ordinarily be limited to those indicated in clause (c) of section 182 with the restrictions that no order passed at an outport by a Customs Collector who is not himself an Officer incharge of the Central Excise Circle shall take effect until it has been confirmed by the Officer incharge of the Circle in which the Custom House is situated. The powers of the Officers incharge of the Central Excise Circle shall be limited to those indicated in clause (b) of section 182. The power to adjudge confiscation and impose penalties without limit under clause (a) of section 182 shall be exercised by the Collector of Central Excise, Mysore, Bangalore.
5. Customs Collectors incharge of outports may dispose of all applications for refunds on short shipment or short landing of goods; all other applications for refunds and all applications for drawback will be disposed of by the Officer incharge of Central Excise Circle.

[No. 217.]

S.O. 1528.—In exercise of the powers conferred by section 9 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Board of Revenue hereby makes the following further amendments in the Rules published with its notification No. 29-Customs, dated the 16th February, 1952, namely:—

In rule 1 of the said Rules, for the word "notification", the word "notifications" and for the brackets, words and figures "(Revenue Division) No. 28-Customs, dated the 16th February, 1952", the brackets, words and figures "(Department of Revenue) Nos 160-Customs, dated the 17th May, 1958 and 193-Customs, dated the 21st June, 1958" shall be substituted.

In rule 2 of the said Rules, for the word, "notification", the word "notifications" shall be substituted.

[No. 218.]

M. C. DAS, Secy.

CUSTOMS

New Delhi, the 2nd August, 1958

S.O. 1529—In exercise of the powers conferred by section 9 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Revenue directs that the following further amendments shall be made in the Rules published with Central Board of Revenue Notification No 7-Customs dated the 16th January, 1951, namely:—

In the said Rules—

(i) the existing rule (i) shall be renumbered as rule (IA) and before rule (IA) as so renumbered, the following rule shall be inserted, namely:—

- (1) (a) The Deputy Collector of Customs shall exercise, concurrently with and subject to the orders of the Collector of Customs, all or any of the powers of a Customs Collector.
- (b) The Collector of Customs may by order delegate the Deputy Collector of Customs the duties of Chief Customs Officer imposed on him by sections 16, 104, 105, 106, 107, 109, 117 and 181A of the said Act.
- (c) Appeals against the orders of the Deputy Collector of Customs, except in cases where such order relates to a contravention of any order made or deemed to have been made under section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1957), shall, in respect of matters falling within their respective jurisdiction lie to the Collector of Customs or the Additional Collector of Customs.

(d) The Deputy Collector of Customs shall be competent, in the temporary absence of the Collector and the Additional Collector of Customs to exercise all or any of the powers conferred on them.

(11) In rule (IA), for the words "The Senior Assistant Collector of Customs shall be competent to exercise all or any of the powers of the Collector of Customs during his absence" the following shall be substituted, namely:—

"The Senior Assistant Collector of Customs shall be competent, in the temporary absence of the Collector, the Additional Collector and the Deputy Collector of Customs to exercise all or any of the powers conferred on a Chief Customs Officer".

2. The above amendments shall be deemed to have been made with effect from 30th January, 1958.

[No. 222/F. No. 22/15/58. Cus-IV.]

M. A. RANGASWAMY, Secy.

MINISTRY OF COMMERCE AND INDUSTRY

ORDERS

New Delhi, the 26th July 1958

S.O. 1530.—IDRA/6/14/Am. (1).—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby appoints Shri P. H. Bhatt, as a member of the Development Council established by the Order of the Government of India in the Ministry of Commerce & Industry No. S.O. 1346, dated the 1st July, 1958, for the scheduled industries engaged in the manufacture or production of Food Processing Industries, and directs that the following amendment shall be made in the said Order, namely:—

In paragraph 1 of the said Order, under the category of members "being persons who in the opinion of the Central Government have special knowledge of matters relating to the technical or other aspects of the said scheduled industries", after entry No. 12 relating to Shri V. A. Mehta, the following entry shall be inserted, namely:—

"12A. Shri P. H. Bhatt, Senior Marketing Development Officer (Fruit Products), Directorate of Marketing & Inspection, Department of Agriculture, Ministry of Food and Agriculture, *New Delhi*."

[No. 4(36)IA(II)(G)/58.]

S.O. 1531.—IDRA/6/14/Am. (2).—In pursuance of clause (c) of rule 2 of the Development Councils (Procedural) Rules, the Central Government hereby appoints Shri V. A. Mehta, Deputy Development Officer (Food), Development Wing, Ministry of Commerce and Industry, New Delhi, as Secretary to the Development Council established by the Order of the Government of India in the Ministry of Commerce and Industry No. S.O. 1346, dated the 1st July 1957, for the scheduled industries engaged in the manufacture or production of Food Processing Industries, with effect from the 1st July, 1958.

[No. 4(36)IA(II)(G)/58.]

CORRIGENDUM

New Delhi, the 22nd July 1958

S.O. 1532.—In the Order of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 2820, dated the 31st August 1957, published in the Gazette of India, Part II Section 3, dated the 7th September, 1957:—

For—"5. Mr. F. Calleway, British India Corporation Ltd., *Kanpur*."

Read—"5. Mr. V. Calleway, Woollen Superintendent, The British India Corporation Ltd., *Kanpur*."

[No. 4(43)IA(II)(G)/58.]

S. R. BANERJEE, Under Secy.

MINISTRY OF FOOD AND AGRICULTURE**(Department of Agriculture)***New Delhi, the 18th July 1958*

S.O. 1533.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the recruitment to the post of Librarian (Class III—Non-ministerial) in the Directorate of Economics and Statistics, namely:—

1. These rules may be called Recruitment Rules, 1958 for the post of Librarian (Class III—Non-ministerial).

2. Recruitment to the post of Librarian (Class III—Non-ministerial) in the Directorate of Economics and Statistics shall be made in accordance with the Schedule annexed hereto.

Statement showing the proposed Recruitment Rules for the Post of Librarian in the Directorate of Economics and—Statistics.

| Serial No. | Designation of the post | Classification | Qualification and age | Prescribed scale of pay under C.S.S. (Revision of pay) Rules, 1947 | Whether recruitment is made by direct and/or pro-motion and/ or transfer | If by pro-motion or transfer source from which such appointments are to be made | Age concessions if any to be given to departmental candidates | Where there is more than one post the proportion of the post vacancies to be filled by direct recruitment and promotion posts | Whether for the purposes of promotion the post will be treated as 'Selection' or 'Non-Selection' posts |
|------------|-------------------------|---------------------------|--|--|--|---|---|---|--|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 1 | Librarian | Class III Non-ministerial | 1. Graduate in Economics or Commerce with training in Library Science. Practical experience of indexing of literature on Economics essential. N.B. These qualifications are for direct recruits and may be relaxed for departmental candidates. 2. *Age not above 35 years, relaxable in the case of Scheduled castes/tribes candidates, displaced persons and other special categories in accordance with the general orders issued from time to time by the Government of India. | Rs. 160—10—330. | By promotion failing which by direct recruitment | By promotion from the post of Librarian Grade III | No age limit for a person in Govt. Service | Please see entry in Column (6) | Non-Selection |

*Relaxation in respect of age may be given in exceptional and suitable cases.

[No. F. 9-90/58-C(E).]
B. R. KAPOOR, Under Secy.

(Department of Agriculture)*New Delhi, the 24th July 1958*

S.O. 1534.—In pursuance of clauses (i) and (k) of rule 4 of the General Grading and Marking Rules, 1937, the Central Government hereby makes the following amendments to the notification of the Government of India in the Ministry of Food and Agriculture (Agri) S.R.O. No. 263 dated the 28th January, 1953, namely:—

In the table below the said notification, under the column "Varieties and grades of tobacco",—

(a) under Group III—Flue-cured Virginia strips, leaf, bits or stems, after the letters "DBL", the letters "DDB" shall be inserted;

(b) under the same group after the entry relating to Suncured Virginia strips or leaf, the following entry shall be inserted, namely:—

"White Burley, strips or leaf".

Grade WBPL.

[No. F. 16-6/58-AM.]

V. S. NIGAM, Under Secy.

MINISTRY OF HEALTH*New Delhi, the 25th July 1958*

S.O. 1535.—It is hereby notified for the information of all concerned that the Central Food Laboratory which was established by the Central Government under sub-section (i) of Section 4 of the Prevention of Food Adulteration Act, 1954 (37 of 1954), in the premises of the All India Institute of Hygiene and Public Health, Chittaranjan Avenue, Calcutta, *vide* Government of India, Ministry of Health Notification No. PFA/Sec 4/F 11-4/55-D(I), dated the 1st June, 1955, has been shifted to 3, Kyd Street, Calcutta.

[No. F.14-41/58-PH.]

A. T. SESHADRI, Under Secy.

New Delhi, the 25th July 1958

S.O.1536.—Whereas Dr. R.L. Mehra has been nominated to represent the Delhi Administration on the Drugs Consultative Committee, the Central Government in pursuance of section 7 of the Drugs Act, 1940 (23 of 1940), hereby makes the following further amendment in the notification of the Government of India in the Ministry of Health No. F.1-3/47-D(II), dated the 13th September, 1948, constituting the Drugs Consultative Committee, namely:—

In the said notification, under the heading 'Nominated by State Governments'—for entry 14, the following entry shall be substituted, namely:—

"14. Dr. R. L. Mehra, Superintendent, Medical Services, Delhi Administration, Delhi."

[No. F.4-13/58-D.]

CORRIGENDUM*New Delhi, the 23rd July 1958*

S.O. 1537.—In this Ministry's Notification No F.1-88/57-D, dated the 1st March, 1958, published as S.R.O. 210 in the Gazette of India dated the 15th March, 1958, after the heading "Schedule L (See Rule 65(9))" insert the following words:—

"Adrenocorticotrophic hormone. Antibiotics; the following; their preparations excluding those intended for topical or external use:—"

[No. F.1-37/58-D.]

S. IFTIKHAR HUSAIN, Dy. Secy.

MINISTRY OF TRANSPORT AND COMMUNICATIONS*New Delhi, the 23rd July 1958*

S O 1538.—In pursuance of sub-rule (5) of rule 430 of the Indian Telegraph rules, 1951, the Central Government hereby specifies the 16th day of August, 1958 as the date on which message rate system will be introduced at Trichur Telephone Exchange.

[No. 11-12/58-PHC.]

K. K. SARAN, Dy. Secy.

MINISTRY OF REHABILITATION**(Office of the Chief Settlement Commissioner)***New Delhi, the 22nd July 1958*

S.O. 1539—In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri C. P. Sapra as Settlement Commissioner for the purpose of performing the functions assigned to such Commissioners by or under the said Act with effect from the date he took charge of his office

[No. 5(12)/Admn(R)/CSC/58]

New Delhi, the 23rd July 1958

S.O. 1540.—In exercise of the powers conferred by Sub-Section (1) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950) the Central Government hereby appoints for the State of Bihar the officer for the time being holding the post of Settlement Officer under the Regional Settlement Commissioner, Bihar as Deputy Custodian for the purpose of discharging the duties assigned to the Custodian by or under the said Act with effect from the date he took over charge of his office.

[No. P/F 16(3) ADMN(PROP)/58.]

New Delhi, the 25th July 1958

S.O. 1541.—In exercise of the powers conferred by Sub-Section (i) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby appoints for the State of Bihar the officer for the time being holding the post of Assistant Settlement Commissioner under the Regional Settlement Commissioner, Bihar as Additional Custodian for the purpose of discharging the duties assigned to the Custodian by or under the said Act with effect from the date he took over charge of his office.

M. L. PURI,

Settlement Commissioner (Admn) *Ex-officio* Under Secy.**(Office of the Chief Settlement Commissioner)***New Delhi, the 24th July 1958*

S.O. 1542.—In exercise of the powers conferred by sub-section (i) of Section 3 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri O. P. Bhatia, P.C.S., Land Claims Officer, Jullundur to the post of an Assistant Settlement Commissioner and Shri Achher Singh, Deputy Registrar, Land Record organization, Jullundur, to the post of a Settlement Officer in the territory of Punjab for the purpose of performing, in addition to their existing duties, within their jurisdiction, the functions assigned to an Assistant Settlement Commissioner and a Settlement Officer respectively by or under the said Act in respect of agricultural lands and shops in any rural areas including houses, cattle sheds and vacant sites if any in any such area allotted along with any such lands.

[No. 3(20)/Policy II/58.]

I. N. CHIB,

Deputy Chief Settlement Commissioner-cum-Dy. Secy.

(Office of the Chief Settlement Commissioner)**ORDER**

New Delhi, the 22nd July 1958

S.O. 1543.—In exercise of the powers conferred upon me by sub-section (1) of section 8 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), I, L. J. Johnson, I.C.S., Chief Settlement Commissioner, do hereby authorise Shri M. N. Mukerjee, Settlement Officer in the Office of the Regional Settlement Commissioner, Patiala, to make payment of compensation to displaced persons, out of the compensation pool, by transfer of allottable property or otherwise in accordance with the provisions of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955.

[No. F. 4(6)Comp-II/57-Policy-I.]

L. J. JOHNSON, Chief Settlement Commissioner.

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 19th July 1958

S.O. 1544.—In pursuance of section 27 of the Mines Act, 1952 (35 of 1952), the Central Government hereby publishes the report submitted to it under sub-section (4) of section 24 of the said Act by the Court of Inquiry appointed to hold an inquiry into the causes of, and circumstances attending the accident which occurred on the 20th February, 1958 at the Central Bhowrah colliery.

REPORT OF INQUIRY INTO THE CENTRAL BHOWRAH COLLIERY DISASTER**U/S 24(4) OF THE MINES ACT, 1952***Constitution of Court*

The Government of India, Ministry of Labour, by their notification no. S.O. 187, dated, the 4th March, 1958 appointed me under Section 24(1) of the Mines Act, 1952 to hold an inquiry into the causes of and circumstances attending the accident which occurred in the Central Bhowrah Colliery on the 20th February, 1958. In the same notification, Shri Jaipal Singh, M.P. and Shri B. H. Engineer, now Chief Mining Engineer, Tata Iron & Steel Company Ltd. were appointed as assessors for the inquiry

Inspection

From the date of the accident, dewatering operations had been undertaken on the maximum possible scale. On the advice of the Chief Inspector of Mines, the first inspection of mine was done on 20th March, 1958 along with Shri Engineer. Shri Jaipal Singh was unavoidably absent. Some part of the mine was inspected but the point at which connection had been established with the abandoned workings of the adjoining Sowardih Colliery had not come out of water. As there, was no certainty about the time when the point would become visible, and an immediate inspection as soon as it became visible was considered desirable, Shri Engineer, who is stationed near Central Bhowrah was authorised to hold the inspection on receipt of intimation from the Mines Department. He went underground four times, till on 5th April, 1958, the point of connection through which water had rushed in became clearly visible. Finally, along with the two assessors, I inspected the adjoining surface and the Central Bhowrah underground workings on 15th April, 1958. Each inspection was made after due notice to the parties and in their presence, and copies of inspection notes were given to them.

Procedure

On 25th March, 1958, a public notice was issued in six newspapers, two of Calcutta, two of Patna and two of the locality, announcing that a public hearing in the inquiry will be commenced at the Jharia Rescue Station from the 14th April,

morning. The interested parties were requested to file written statements in advance. Five sets of written statements on behalf of the following parties were received.

- (1) Indian Mine Workers' Federation, Dhanbad and Bihar Koyla Mazdoor Sabha, Dhanbad.
- (2) Indian National Mine Workers' Federation and Colliery Mazdoor Sangh, Dhanbad.
- (3) Chief Inspector of Mines in India, Dhanbad.
- (4) Director Central Bhowrah Coal Company (Private) Ltd.
- (5) Shri P. K. Dan, Ex-Manager, Central Bhowrah Colliery.

Each party was given a copy of the statement of all other parties.

I allowed the parties to be represented by lawyers, if so desired. Nos. (1) and (2) did not engage any lawyer, though Shri D. Narsingh appearing for No. (2) is a lawyer by profession. The Public Prosecutor, Dhanbad watched the proceedings for party No. (3) which were conducted by the Additional Chief Inspector of Mines, Sardar G. S. Jabbi. Shri Mahabir Prasad, Advocate General and three local lawyers had been engaged by party No. (4). They also generally watched the interest of party No. (5).

The written statements gave an indication that party No. (1) claimed to know more facts about the case than any other party. Consequently, hearing started with the examination of six witnesses produced by them. They obtained summons to get three more witnesses, but later on did not press for their examination. Four witnesses for the Mines Department, four for the Management and four Court witnesses were examined. Their names are noted in Annexure I.

The hearing concluded on 25th April, 1958 with the presentation of arguments by parties. A list of documents and mine plans exhibited before the Court is mentioned in Annexure II.

Situation history, ownership etc. of the mine

The Central Bhowrah Colliery is located 12 miles south of Dhanbad, two miles off the main road to Sindri from near the Central Fuel Research Station. The main railway line between Gomoh to Adra cuts the colliery. Adjoining it is the railway culvert No. 420 on a small nala. The colliery is in two plots, both in village Mohalbanli, one of 88 bighas and the other said to be of 100 bighas, between which are the workings of a colliery belonging to another management. Shri Banwari Lal Agarwala obtained a lease of the two plots from the Jharla Estate in November, 1943, and whereas he was able to get possession of the 88 bigha plot, prolonged civil litigation ensued about the other 100 bigha plot. The litigation lasted for 12 years and ended in the High Court. Shri Agarwala came in possession of this plot on 5th September, 1956. The accident has taken place in the underground workings of this 100 bigha plot.

Shri B. L. Agarwala transferred his right, title and interest in Central Bhowrah Colliery to M/s Central Bhowrah Coal Company Ltd. by a registered indenture dated 6th November, 1945. The Company is controlled by him as the Managing Director and his son as the other Director.

Shri P. K. Dan holding, since 1951, a first class Manager's certificate of competency, was appointed as the Manager of Central Bhowrah Colliery on 21st November, 1957. As required under regulation 31(viii)(a) he gave one month's notice of resignation, the period of which expired on 16th February, 1958. In his deposition Shri Dan says that he got better accommodation and terms at another colliery. He remained in occupation of the Manager's house till 18th February, 1958, but there is no evidence of his having transacted any work for Central Bhowrah after 16th February, 1958. On the date of the accident, there was no Manager. The next statutorily qualified person in the colliery was Shri R. S. Mookherji, senior overman. There is no order by the Management authorising him to remain in charge of the mine and no Manager has been appointed. It is accepted by the Mines Department that there is an acute shortage of qualified Managers.

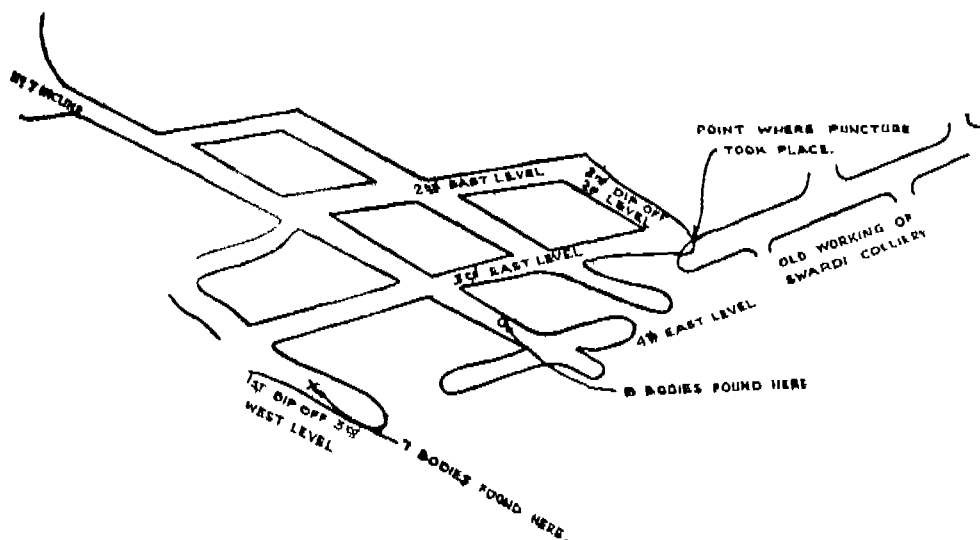
Description of the accident

At about 5 A.M. on the 20th February, i.e. the third shift of the previous working day, there was a heavy irruption of water from the abandoned workings of the Sowardih Colliery. This is at the junction between the third east level and the second dip off the second east level, in No. 7 incline of Central Bhowrah.

In Sowardih Colliery, both open cast and extensive underground workings had been made. Therefore, prior to the accident, there was an extensive pool of water, to all intents and purposes, a large tank, adjoining the Central Bhowrah 100-bigha plot. The water level in this Sowardih pool was found to have gone down on measurement by 2.78 meters only two hours after the accident, establishing beyond doubt that inundation of the 100 bigha Central Bhowrah took place due to heavy irruption of water from the old Sowardih Colliery.

According to Thakurdas Nepit, the Mining Sardar, incharge of the ill-fated shift, 29 persons including himself, a pump khalasi and a trolly-man were engaged in that shift. Four miners had come out for various reasons, and he, the pump khalasi and trolly-man ran out on hearing the roar produced by the in rush of water. It is feared that the 23 miners who were left behind must have been drowned immediately. Prompt and extensive steps for pumping out water were taken within a few hours of the accident, every one concerned, the Mines Department, the Management neighbouring collieries and other authorities playing their full part in the rescue operations. Despite these measures, such was the accumulation of water that the mine could be dewatered up to the second level by 20th March, 1958 when I first went underground. Twenty bodies had been recovered upto 25th April 1958, the date of final hearing. Thirteen dead bodies were found in the main incline No. 7 between the third level and the fourth level and seven in the first dip of the third west level. The bodies were so decomposed that they could not be identified on post-mortem examinaion. Further dewatering is in progress, but the common case is that the entire lot of 23 miners must be presumed to be dead. There names have been noted in Annexure III.

The following is a sketch of the place of accident—



Issue

The issue is as to how the aforesaid irruption came about. The case of parties Nos. (1), (2) and (3) is that the Central Bhowrah Colliery management had failed to observe Regulations 107 and 127 of Coal Mines Regulations, 1957. According

to 107, the work should have been stopped 7.5 meter short of the common boundary with Sowardih Colliery. Instead, as the plans prepared by the Mines Department for the accident show, the workings had proceeded 21 meters into the boundary of Sowardih. Regulation 127(3) enjoins that no working, without the permission of the Chief Inspector of Mines, can be extended within a distance of 60 meters of any discussed or abandoned workings. Even after obtaining such permission, bore-holes of 3 meters in length should be made before advancing the workings. In this case, neither was the permission of the Chief Inspector of Mines obtained, nor were any bore-holes made, and yet, the working of Central Bhowrah was extended beyond the boundary, leave aside the question of maintaining 60 meters barrier between new and abandoned workings. Party No. (1), the Indian Minc Workers' Federation and Bihar Koyla Mazdoor Sabha go a step further and suggest that the breach of Regulation 127, as will be explained later in the report, should have been clear to the Regional Inspector of Mines during his inspection of this colliery in December, 1957 and further working should have been stopped under section 22 of the Indian Mines Act, 1952. It is also suggested that heavy seepage of water was noticed as working progressed in No. 7 incline. This should have warned the Management to discontinue further working. On the other hand, the Management's case is that there had been no encroachment, by Central Bhowrah into the workings of old Sowardih. Instead, there were some hidden galleries of Sowardih Colliery encroaching on the area of Central Bhowrah which were not indicated in any of the old plans. Nobody had any knowledge of such encroachment and even though Central Bhowrah working was well within the Colliery's prescribed boundary limit, it got connected with Sowardih gallery, thus letting in a huge quantity of water from the abandoned Sowardih workings. The Management has also put forward the theory that a side-fall of stones in the Sowardih surface water had exerted pressure so as to cause the bursting of the barrier between the workings of Central Bhowrah and the galleries of Sowardih which, as mentioned above had encroached into the Central Bhowrah area. The ex-Manager, party No. (5) has made a common case with the Management.

Seepage of water

It would be convenient if I were to deal with the versions of seepage of water in the mine as portending danger and of accident due to roof fall. No complaint about seepage of water was made to any authority by any miner prior to the accident. A 2 H.P. pump was found by the assessor, Shri Engineer in the main haulage dip below No. IV level east. The senior overman has deposed that the pump was installed on the night of the 17th February. There is only one miner who has deposed that it was installed about two weeks ago, but there is another miner who says that there was nothing more than the usual accumulation of water. The Inspectorate also support the latter view. Water used to be bailed out without difficulty by the miners themselves. When the underground working proceeded beyond the third level, they found it inconvenient to do bailing and asked for a pump. There is no evidence as to how long the pump used to be worked in each shift. In his statement before the Inspector of Mines, Shri Srivastava, immediately after the accident, Mining Sardar, Thakur Das Napit said that water was percolating from the roof, sides and working faces. Obviously he means ordinary percolation, because if this part of his statement is to be believed there is no reason as to why his statement about installation of pump on 17th February, 1958 should not be believed. Central Bhowrah is classified as a wet mine. There is no evidence to prove that the collection of water through percolation was such as to cause any reasonable apprehension of inundation from an adjoining waterlogged area.

Roof fall

The version about roof-fall was tested during the last inspection of the site on the 15th April. A few tons of stone, were found to have fallen at a place about 150 meters from the boundary between the Central Bhowrah and Sowardih Collieries. Shri B. L. Agarwala had not spoken of stone-fall in his statement before the Inspector of Mines. His brother, Shri Arjun Agarwala had, however, said so to the Regional Inspector, Shri B. M. Bhatt, within a few hours of the accident. Shri Dan, the ex-Manager, who has now come forward to support this suggestion, made no mention of any side fall in his statements to the Inspector of Mines at any time either on 20th February, 1958 or on 24th February, 1958, when his statements had been recorded. Indeed, he could not, because he was, elsewhere at a distant colliery. There is no other evidence except one more fact. This is that 2 east level, second dip and 3 east level, 7 incline, Central Bhowrah had joined 24 to 36 hours before this point got burst under the pressure of accumulated water of Sowardih. Some miners deposed that extraction of coal was in progress in the second dip and third east level upto the day previous to the accident. The colliery staff mentioned that

no work was continued in these places after the second shift of the 18th February, and the miners were allotted work in other areas of the incline. Before Shri Engineer vide his inspection report, the overman had said that the connection took place in the night shift on Tuesday, the 18th February. The increase in time lag from 24 to 36 hours does not alter the picture. The timing of the side fall in Sowardih has not been proved. The quantity of stone which has fallen is small and cannot bring about sufficient pressure on a working 150 meters away from the fall so as to cause a bursting of the barrier of coal.

As an immediate cause of the bursting the labour organisations have suggested that work had also been taken up in the second dip of third east level. I have not been able to get any reliable support for this view from the inspection of underground workings. What happened was that the floor of the east level near the point of junction had overlapped a portion of a gallery of Sowardih, separated probably by a thin partition of about 2 ft. of coal. This thin barrier was bound to give way sooner or later under a pressure of accumulated water, measured to have a head of 24 meters after the accident.

Main issue

I now take up the main issue as to which Colliery, Central Bhowrah or Sowardih, had encroached beyond the common boundary. The pitch of the dispute has been the determination of the common boundary on which a number of plans have been exhibited, both by the Department of Mines and the Management.

Shri B. L. Agarwala, Managing Director has admitted that he had got no reliable plans when he came into possession of the 100 bigha plot of Central Bhowrah Colliery. A cadastral survey map of village Maholbani would have served useful purpose because of portion of the eastern boundary of the village would coincide with the Central Bhowrah 100 bigha plot but no party was able to place a copy. As an alternative, several plans of the adjoining colliery in village Sowardih to the east of Maholbani has been produced because its western boundary would automatically become the eastern boundary of 100 bigha plot of Central Bhowrah Colliery. There is a Sowardih Colliery plan of 1920 giving its full boundary. This colliery was worked up to 1927 and in January, 1928 and June 1928 two plans showing the positions of common boundary and abandoned workings had been prepared. The small discrepancy between the two plans of 1928 was considered in an order of the then Inspector of Mines in June, 1928, and the later June, 1928 plan was approved for boundary purposes. Regarding the plotting of workings there was a little discrepancy but that was not treated to be a matter of significance because some abandoned gallery might have subsided.

The Management was fully aware of the 1928 plans. Shri B. L. Agarwala had seen them in the office of Chief Inspector of Mines and had got copies of them from the Chief Engineer, M/s Bird and Company. These were seized from the Colliery office after the accident. These plans, and no others, form the basis of various transactions in respect of the colliery. In the letter sent by the Manager of the Colliery to the Chief Inspector of Mines on 7-9-1956, a copy of June 1928 plan was enclosed. An identical plan was forwarded by Shri Agarwala to the State Government along with his application dated 1-7-1957 for permission to work within 50 ft. of the railway line. On the 1st August, 1957 he also applied to the Coal Board along with a similar plan. The working plan which Shri Bhatt saw in the colliery office during his inspection in December, 1957 conformed to the above plans. This very working plan was seized from the colliery office after the accident. The hand plan given over by the Colliery's Senior Overman to the Inspector repeats the same boundary. The Management have come out with the story of a different set of plans only after the institution of the present inquiry. The important plans which have been exhibited on their behalf are (1) a plan by Colliery Surveyor, Shri Das Gupta dated 14-10-1957 to show that the boundary as given in June, 1928 plan is incorrect. (2) A composite plan by the same Surveyor in which boundaries according to the three old plans of Sowardih dated 1920, January, 1928 and June, 1928 have been plotted. The composite plan is to prove that even according to the 1920 plan which gives the least favourable boundary to Central Bhowrah, far more than the statutory gap had been left from the side of Central Bhowrah. The Picture would become far more advantageous if the June 1928 boundary was adopted. (3) Then there is a plan prepared by Shri Chandra, Survey knowing pleader after the start of the inquiry which supports Shri Das Gupta's plan. (4) Finally, the Ex-Manager has produced in Court a hand plan of working in No. 7 incline Central Bhowrah. He says that he took it away by mistake to his new place of posting. The plan is based on Shri Das Gupta's plan.

The cross-examination of Shri Das Gupta revealed patent defects in his plans. He had not correctly reproduced the measurements as recorded in his field book on the plan. The discrepancies between the two sets of figures in plotting the distance from one survey point to another were numerous but in one case was as much as 358 ft. He deposed that the theodolite used by him did not record reading in second. In his original field book, once alleged to be torn but produced later on my insistence, the readings were found in degrees, minutes and seconds. In the copy of that field book the reading in second had been unaccountably dropped. He said first that he had adopted the repeat angle method of measuring angles but could not later on explain as to why he dropped the method. The basis on which the composite plan has been prepared could not be explained. There must be a common point of reference. Shri Das Gupta has adopted the adjoining railway line as the point of reference for plotting the boundaries according to January and June, 1928 plans but in reproducing the boundary according to the 1920 plans, the railway line has not been considered. The adjoining railway culvert has not been taken as a fixed point for any of the boundaries. The omissions are deliberate. When I and the assessors compared the positions of boundaries according to the three plans with the railway line and culvert as fixed points, the picture was exactly reversed.

The less said about Shri Chandra's plans the better. He said in cross-examination that he had seen no later plan of Sowardih than the 1920 plan. He started relaying the boundary with the help of two trijunction pillars in Sowardih on two sides and the railway culvert on the third side as fixed points. He gave up the railway culvert evidently because he could not produce a convenient plan.

A Surveyor of the office of the Railway Mining Engineer, Dhanbad was summoned as a witness. He exhibited a copy of the plan prepared by him about 5 months ago under the orders of his superior officer. The positions of the railway line and culvert tally with those given in the plans relied upon by the Department of Mines. The Surveyor also said that the records did not show any change in their positions since 1920, and I am satisfied that the railway line and culvert cannot but be used as fixed points for preparing a reliable plan of the area.

The working plan exhibited by the Ex-Manager incriminates him because by measurement in Court he said that the Central Bhowrah workings had been allowed to advance up to 40 ft. from the common boundary, that is, beyond the limit of 60 meters as prescribed in Regulation 127(3) towards the Sowardih water-logged area. But it is difficult to believe as to how the Manager should be keeping a working plan which was different from the working plans kept in the colliery office or by the senior overman of the colliery. Shri Das should have referred to this plan when the Regional Inspector had discussed with him in December, 1957 about the workings in No. 7 incline having just reached 7.5 meters of the boundary Regulation 107 and further, the desirability of considering the precautions under Regulation 127. He was examined twice by the Inspector of Mines. He surrendered a daily diary four days after the accident but he said nothing about any plan.

I also find it difficult to believe as to whether Shri Das Gupta was employed as the part-time Surveyor of Central Bhowrah on 14-10-57 when he is alleged to have prepared the boundary plan. His appointment had not been communicated either by him or the management to the Mines Department. No appointment letter or any entry in any register showing him employment has been shown. The Managing Director, Shri B. L. Agarwala, Ex-Manager and senior Overman did not refer to his appointment in their statements before the Inspector. Shri Agarwala said that he had appointed one B. N. Tewary as a Surveyor who had not joined. Shri Dan took the name of one D. H. Guha. A letter dated 14-10-57 from the Regional Inspector to Central Bhowrah enquiring about the address of Shri Das Gupta is there but this alone will not establish his appointment. This gentleman is being prosecuted by the Mines Department for submitting inaccurate plans.

It does not also stand to reason as to why after getting Shri Gupta's plan dated 14-10-57 Shri Agarwala did not inform the various authorities that significant changes had taken place in the plans submitted by him earlier. The plan of Shri Das Gupta was an effective answer to several important points raised in the letter of the Regional Inspector about violations of mining regulations in this colliery but no such use was made leading to the obvious inference that it was not in existence. According to the mining regulations, all plans are to be kept in colliery

office and their list is to be prepared and communicated to the Mines Department. In Shri Bhatt's letter dated 19-12-57 defects in respect of maintenance of plans in this colliery have been mentioned. One would expect all plans to be collected at the colliery office at least after the receipt of the Regional Inspector's letter. A situation in which important plans should be kept at the residence of the Managing Director at Jharia, whereas the Senior Overman would carry on work according to the old plans dreading all the time that he had encroached into Sowardih property is indeed intriguing.

It is doubtless beyond the competence of this Court to adjudicate a boundary dispute. The Management may have *bona fide* grounds for thinking that the eastern boundary of Central Bhowrah as shown in the June 1928 plan of Sowardih was not a correct one. The question really is as to whether they were justified in keeping revised plan as a closely guarded secret, and without intimation to any authority including the Mines Department, *suo moto* adopting a revised boundary. Such conduct cannot be treated to be a *bonafide* one. Other circumstantial evidence has not only discredited the revised plan but has proved that it was not in existence till the unfortunate accident took place and this inquiry was set up. I am unable to agree with Shri Mahabir Prasad that the onus of proving the correct boundary was on the Mines Department. It is enough for the purpose of this enquiry that there was a plan, that is the June 1928 plan which the Management had adopted as the basis of their work for their numerous official transactions. By giving a go-by to this plan and transgressing the boundary mentioned therein, the Management violated the Regulations and invited disaster.

If the boundary as relayed by Shri Das Gupta cannot be accepted, the plan of working given by him is equally unacceptable. He could not explain in Court as to how he had plotted No. 7 incline. As against this, the Mines Department Surveyor had gone underground as far as the Sowardih working was found to be accessible. By personal check he has testified to the location of galleries as shown in January, 1928 Sowardih plan to be correct. Shri Mahabir Prasad argued that the patent discrepancy in plotting the Sowardih workings on two plan should lend support to the suggestion that there were hidden galleries not known to the Department. On comparison of the workings in the January and June 1928 plans I found that there would be some alteration in the vertical position but not in the lateral position of the galleries and it is the latter position which affects the boundary.

The distance of encroachment by Central Bhowrah workings into the old workings of Sowardih was measured in Court and was found to be 21 meters. When the encroachment itself has been made, there is no question of leaving the statutory barrier of 7.5 meters from the common boundary. The conduct of the management would appear to be doubly irresponsible because the subject of the new working of Central Bhowrah having reached a point just 7.5 meters of the common boundary had been discussed by Shri Bhatt with the ex-Manager during his inspection in December, 1957. The verbal warning was confirmed by a letter. Everybody had seen the letter including the senior overman and there was no justification for resuming the workings which were found to be suspended during Shri Bhatt's inspection.

Responsibility for the accident

Section 18 of the Mines Act, 1952 places the responsibility for contravention of the provisions of the Act and Regulations made thereunder on the owner, agent and manager. In this case I got no evidence about the existence of any agent. Shri B. L. Agarwala signing the written statement as the Managing Director has admitted that the only other Director in the Private Company Limited owning this colliery is his son who takes no interest in the management. Shri Agarwala will, therefore, be deemed to be the owner of the colliery for purposes of Section 18. He deposed before me that he was leaving the work of the day-to-day management of the colliery to his staff and that he had not gone underground. Only on 20-2-1958 his answer to the Inspector was not so categorical. When asked as to whether he had gone in No. 7 incline on 18-2-1958 he said that he did not remember. The miners speak of their seeing Malik Babu, that is, Shri Banwari Lal inside the mine a couple of days before the accident. The Overman said that the owner had gone inside on 18-2-1958 and given instructions. In his statement before the Inspector on 20-2-1958 Shri P. K. Dan said that the work in the mine was being done at the instance of the owner. Further, the owner normally gave instruction to the Mining Sardars and Overman. In Court it was added that he would get intimation of such instruction. The diary of the Senior Overman is replete with instances of Shri Agarwala's initiative in running the colliery even to the extent of suggesting changes in the group of miners.

A suggestion was made that the Senior Overman's diary had not been maintained in the normal course of business because this does not carry the signature of the Manager. The Overman's reply is that the Manager was refusing to sign the diary on the ground that he (Manager) was not required to do so under the regulations. In any case, the Overman's diary is not a faked one because it had been seized by the Inspector immediately after the accident. The colliery had been off and on running without a manager. Since October, 1957 we know of two changes of Managers. After Shri Dan had left, admittedly nobody had been put in charge as a Manager, and from the evidence which has come on record about the part of Shri B. L. Agarwala prior to the accident, the plea that he was taking no part in the management in the day-to-day working of the Central Bhowrah Colliery cannot be accepted.

The ex-Manager, Shri P. K. Dan cannot also escape the responsibility just because he had ceased to be the Manager from 3 days prior to the accident. The Overman in his diary dated 9-1-1958 writes that he was permitted by the Manager to cross the boundary line towards Sowardih. He has disposed that whenever he would mention the question of this crossing, the Manager would tell him that the working could proceed to two pillar lengths to the east of the haulage dip of No. 7 incline. Shri Dan had been told in the middle of December, 1957 by Shri Bhatt that with reference to the boundary, *vide* plan kept in the colliery's office the suspended working stood just 7.5 meters away from the boundary and there was no question of resumption of work. Despite the warning, the workings were substantially advanced towards the east of the main haulage dip during Shri Dan's term of Managership of the colliery. The boundary limit had been transgressed and Shri Dan is also answerable along with the owner for the violation of Regulations 107 and 127(3) and (5) which culminated in the disaster.

The Senior Overman, Shri R. S. Mukerji, knew that he was doing something against the law. Perhaps, he was helpless because he was working under the instruction of the Manager and the owner. It is not easy to suggest as to how a subordinate functionary of Shri Mukherji's status could ignore the instruction of his superior officers, even though he knew such instruction to be in contravention of the Mining Regulations.

Responsibility of the Mines Department

An earnest suggestion was made on behalf of the labour organisation that the accident could have been prevented had the working of the Mine been stopped after the Regional Inspector, Shri Bhatt's inspection of No. 7 incline on 12th December, 1957, pending compliance with the precautions enjoined in Regulations 127(3) and 127(5). Shri Bhatt had noted as follows in the standard form of inspection submitted to the Chief Inspector of Mines.

"Water-logged workings of Sowardih more than 30 meters away. No danger if workings do not proceed further". The exact distance was 33 meters. Shri Bhatt had found partial accumulation of water in the east galleries. The workings had evidently been stopped; and he suggested that the management would have considered it uncalled for if in the letter sent to them the necessity of observing 127(3) was pointed out. The danger due to the proximity of Sowardih water-logged area had, however, been discussed with the manager in the context of the Regulation and he considered this to be enough. As events have shown in retrospect, this was not enough.

I enquired from Shri Bhatt as to why he was thinking of Regulation 74 of 1924 which had fixed the distance limit of 100 ft. The findings in the Newton Chickli inundation inquiry had brought in Regulation 5(2) of 1935 by which the distance limit from water-logged area had been increased to 150 ft. Regulation 127(3) which came into force on 24th October 1957 has further raised the limit to 60 meters. Shri Bhatt said that he had no information as to when the eastern side of No. 7 incline had been worked up to the positions where he had found them. The present management got possession of 100 bigha plot in September, 1956 but there was no indication that the east faces of No. 7 incline had been worked subsequently. He did not enquire. Shri Bhatt found other old workings of Maholbani mines close to Sowardih workings and as the barrier had stood, there was no reason for him to think that it would give way at the particular place even though the distance was 33 meters. No immediate action was indicated but the future danger was discussed.

On the 5th February, 1958 there was another inspection of some parts of the Central Bhowrah Colliery by Shri Bhatt. Finding that safety regulations had been flouted, he applied section 22 prohibiting the workings in two parts of the colliery. On 15th February 1958 he sent the Area Inspector to check compliance with his orders. No enquiry was made on either of the dates as to whether working in No. 7 incline had remained suspended or been resumed. Even a casual enquiry would have elicited the information that the workings had been resumed. Shri Bhatt's explanation is that he had given more than the usual attention to Central Bhowrah since December, 1957, even though he has a heavy charge of about 250 mines. In one inspection it is not possible to find out about the stage of work in all mines in a colliery. The Area Inspector had gone for the limited task of ensuring compliance with the order of closure of two parts of the colliery. Neither could imagine that workings in the east galleries of No. 7 incline had been resumed despite a clear-cut direction in the Regional Inspector's letter. The direction about Regulation 107 in the Regional Inspector's letter should in my opinion have been more definite. Further, considering the management's poor record and the fact that there was a large pool of water closeby in the abandoned workings of Sowardih, it would have been prudent not to forget about the east galleries No. 7 incline of Central Bhowrah in subsequent inspections.

I do not suggest that the Inspectorate have been negligent in their discharge of duties. A good deal of action had been taken to improve the management of Central Bhowrah Colliery, and in the ultimate analysis any Inspectorate would be helpless against a management which would deliberately disregard the Law. I say deliberately because the possibilities of violation of both the regulations 107 and 127(3) had been discussed by the Regional Inspector with the Colliery Manager about two months prior to the accident. To any responsible management, the letter of the Regional Inspector would convey a warning that any further working in No. 7 incline east galleries would lead to violation of regulation 107. Even if the management had any doubt, they should have obtained a clarification but in the anxiety to extract coal, a clarification was not desired. The safety regulations appear to be adequate, and but for their violations, for which the Management is squarely responsible, this tragedy should have never taken place. It is, therefore ordered under Rule 22 of the Mines Rules, 1955 that the entire cost of the inquiry should be paid by the owner within two months of the date when a demand, certified as correct by the Chief Inspector of Mines in India, is made by the Area Inspector of Mines.

Acknowledgement

Before concluding the report I would like to express my grateful thanks to Shri B. H. Engineer for his inestimable help in evaluating the data and evidence about mining, mining plans and regulations. My sincere thanks are also due to Shri Jaipal Singh, M.P. for helping me with a number of suggestions on the general aspects of the inquiry and for agreeing to forgo the budget session of the Lok Sabha so that the inquiry could be finished quickly. The inquiry could not have been concluded in such a short time but for the facilities arranged by the Mines Department, particularly, the Chief Inspector of Mines and the Additional Chief Inspector and the spirit of cooperation shown by all the participants.

T. P. SINGH, Court of Inquiry.

I have no comments to add.

PATNA;
28th April 1958.

(Sd.) B. H. ENGINEER.

I agree subject to my comments on the role and responsibility of the Department of Mines and the improvement that may be made in the present Act and Regulations.

PATNA;

April 28th 1958.

(Sd.) JAIPAL SINGH, M.P.

ANNEXURE I

List of witnesses

(Indian Mine Workers' Federation and Bihar Koyla Mazdoor Sabha)

1. Sraban Rajwar—Miner.
2. Ramchandra Gope—Miner.
3. Janum Singh Munda—Miner
4. Tapeshar Gope—Trammer.
5. Peaji Munda—Miner.
6. Hem Raj Mahato—Miner.

(Department of Mines)

1. B. M. Bhat—Regional Inspector of Mines Region No. 2.
2. A. C. Srivastava—Inspector of Mines Region No. 2.
3. Md. Shafi Ahmad—Surveyor, Department of Mines.
4. K. P. Sarkar—Surveyor, office of Mining Adviser, Railways.

(Management)

1. D. N. Das Gupta—Part time Surveyor, Central Bhowrah Colliery.
2. J. N. Chandra—Pleader knowing Surveying.
3. P. K. Dan—Manager upto 16-2-1958 of Central Bhowrah Colliery.
4. B. L. Agarwalla—Managing Director, Central Bhowrah Coal Co. (Private) Limited.

(Court)

1. R. S. Mukherji—Senior Overman, Central Bhowrah Colliery.
2. Thakur Das Napit—Mining Sirdar in charge of the shift in which accident took place.
3. Babulal Majhi—Mining Sirdar in charge of the shift previous to the shift of accident.
4. B. Nath—Sub-Inspector of Police, Jorapukar P. S.

ANNEXURE II

Exhibits on behalf of Department of Mines—

Ext. 1—D.M.I. No. 20—58 dated 7-4-58—Plan prepared by Surveyor, Mining Department, as directed by Sri Engineer.

Ext. 2—Working plan of No. 7 Incline of Central Bhowrah Colliery (Eastern Section) dated 20-2-1958—Seized by Inspector from Central Bhowrah Colliery office.

[Line M-N indicated by the Court]

Ext. 3—Field Book of Ex. 1.

Exts. 4 & 5—Plans on a bigger scale explaining point of irruption of water, recovery of dead bodies—Prepared by mining Department Surveyor on Sri Engineer's direction.

Ext. 6—Sowardih Colliery plan, dated, 21st January 1928—Seized by Inspector from Colliery office.

Ext. 6-1—Sowardih Colliery plan, dated, 6th June, 1928—Seized by Inspector from Colliery office.

Ext. 6-2—Plan of Sowardih Colliery, dated 6th June, 1928—Same as 6/1.

Ext. 6-3—Old Plan of Sowardih Colliery dated 21st January 1928—Same as Ext. 6.

Ext. 7—Working plan of no. 7 Incline of Central Bhowrah (Eastern Section)—Seized from Sri R. S. Mukerji, Senior Overman by Inspector of Mines.

Ext. 8—Original of Ext. 1.

Ext. 9—Letter written by Mr. Bhatt (No. R-2/8116 dated 19th December 1957 to the owner after his inspection by Colliery cataloguing violations).

- Ext. 9(1)—Inspection report of Mr. Bhatt on 7th, 11th, 12th and 13th December.
- Ext. 9(2)—Letter No. R-2/14J-876 dated 4th February 1958 from Shri Bhatt to the owner.
- Ext. 9(3)—Letter no. 32 dated 2nd March 1958 from Bird & Co. to the Chief Inspector of Mines saying that Sri Agarwala had been giving plans including Exts. 6 and 6/1.
- Ext. 9(4)—Sri Banaclough's note on January and June 1928 plans of Sowardih.
- Ext. 9(5)—Letter No. 39 dated 22nd June 1957 from owner to the Chief Inspector of Mines requesting him to show the abandoned plans of Sowardih Colliery.
- Ext. 9(6)—Gazette Notification dated 31st March 1921 regarding workings under railway.
- Ext. 9(7)—Plan of Bhowrah Mine (Mahalbari Section) Plan L.A.M.A. No. 39' dated 30th August, 1920—10 & 11 seam.
- Ext. 9(8)—Plan of B. N. Railway Bhojudih Bhaga Section, Mahalbari siding No. 9, M.E.S. No. M. 37.
- Ext. 9(9)—Letter dated 7th September, 1956 from the Management to the Chief Inspector of Mines with a plan.
- Ext. 9(10)—Letter No. B/L 6024/57 2448R dated 29th July 1957 from Revenue Department, Government of Bihar to the Chief Inspector of Mines.
- Ext. 9(11)—Plan showing proposed extension of quarry No. 10 and 11 seam of Central Bhowrah Colliery signed by Sri Agarwala.
- Ext. 9(12)—Letter No. 0/36/A dated 2nd November from Coal Board to the Central Bhowrah Colliery regarding permission to re-open the quarry.
- Ext. 9(13)—Plan of 10 and 11 seam of Central Bhowrah signed by Sri Agarwala and submitted to the Coal Board.
- Ext. 10—Plan of Central Bhowrah Colliery Surface made by the Surveyor of the office of the Mining Adviser, Railways dated 28th October 1957.
- Ext. 11—Seizure list of documents seized by Inspector, Sri Shrivastava a few hours after the accident.
- Ext. 12—Statement of Shri B. L. Agarwala before the Inspector of Mines on 20th February 1958.
- Ext. 12(1)—Do of Thakur Das Napti, Mining Sardar.
- Ext. 12(2)—Do of R. S. Mukherji, Overman.
- Ext. 12(3)—Do of Sri P. K. Dan, Ex-Manager.
- Exhibits on behalf of owner—*
- Ext. A—Das Gupta's plan dated 14th October 1957 showing workings of quarry No. 3 and incline No. 7 in relation to boundary line of Sowardih Colliery on 1920 plan.
- Ext. B—Plan showing working of the Bhowrah Colliery on 14th October 1957 quarry No. 38 incline 7.
- Ext. C—Working plan of 1920 (in a tin cover).
- Ext. D—Composite plan of Das Gupta on which Sowardih boundary according 3 plans, one of 1920 and two of 1928 is shown.
- Ext. E—Field Book regarding Ext. A.
- Ext. E1—Co-ordinate chart of traverse survey (placed with Ext. E).
- Ext. E2—Original field book of Sri Das Gupta.
- Ext. F—Permanent land marks—Plan by pleader surveyor Sri Chandra dated 11th April 1958.
- Ext. G—Plan showing the intermediate boundary line between Sowardih Colliery and Central Bhowrah.
- Ext. H—Field Book of Sri Chandra, Pleader Surveyor.
- Ext. I—Hand plan of Central Bhowrah workings produced by Sri P. K. Dan in Court.
- Ext. J—Manager's Diary.
- Ext. J-1—Diary of Overman, Sri R. S. Mukherji.
- Ext. K—Letter No. R-2/6535 dated 15th October 1957 from Regional Inspector enquiring from owner Sri Das Gupta's address.

ANNEXURE III

List of persons missing after the accident—

1. Sreepati Kora.
2. Padma Kora.
3. Raijhu Kora.
4. Dasu Kora.
5. Kali Kora.
6. Hari Kora.
7. Upendra Kora.
8. Chaitu Kora.
9. Sabroo Kora.
10. Jugal Kora.
11. Chhoto Kali Rajwar.
12. Babulal Rajwar.
13. Sashi Rajwar.
14. Saroo Thiru Rajwar.
15. Sohan Rajwar.
16. Debu Rajwar.
17. Sahral Gope.
18. Maneh Bowri.
19. Bistu Rajwar.
20. Niru Rajwar.
21. Bhuku Bauri.
22. Jugal Gope.
23. Pokhan Gope.

Copy of letter dated the 20th May, 1958, from Shri Jaipal Singh, M.P. an assessor of the Court of Inquiry addressed to the Secretary, Ministry of Labour, Government of India, New Delhi.

In connection with the Court of Enquiry into the Central Bhowrah Colliery disaster, I send herewith my comments on the role and responsibilities of the Department of Mines and the improvements to be made in the present Act and Regulations, as indicated at the end of the Report submitted to you by Shri T. P. Singh, I.C.S.

Copy of letter dated the 10th May, 1958, from Shri Jaipal Singh, M.P. an assessor of the Court of Inquiry, addressed to the Secretary, Ministry of Labour, Government of India, New Delhi.

I regret I cannot agree with my colleagues about their fixing the responsibility for the man-made disaster squarely on the management alone. In my opinion, the Department of Mines is equally, if not more, responsible; particularly, as after the last great war, a type of proprietor has appeared in the mining industry who has to be watched very carefully. The Department of Mines has the accumulated knowledge and experience which the average amateur proprietor must be given. In the case of the Central Bhowrah Colliery disaster, I do not see how the Department of Mines can be absolved. Why did not they take adequate precautions against the workings of a colliery which was adjacent to an abandoned and waterlogged mine? Neither the management nor the Department of Mines had accurate or up-to-date maps! From the moment No. 7 incline began to be worked, the Inspectors of the Department of Mines should have been on the alert from day to day against the danger that was patently imminent, because of the waterlogged and abandoned workings. It is not just a coincidence that the Manager, Mr. Dan, decided to serve his notice to quit just about a month before the connection with the old working of the Swardih colliery was made which resulted in the irruption of water into the Central Bhowrah Colliery. Although in the Court of Enquiry it was not possible to elicit from Mr. Dan what, to my mind, was his real reason for serving his notice to quit on the management, I still believe that, as the workings proceeded towards the abandoned Sowardih colliery, he began to get portents of disaster. When the inspection was made, it was discovered that no boreholes were made. The Department of Mines did not explain why their inspectorate did not

become tough with the Management on this one issue alone. Further workings should have been stopped. I am clear in my mind that the disaster was man-made and that both the Department of Mines and the Management are responsible for the disaster.

The Department of Mines is heavily under-staffed. It is expecting too much of an Inspector to do proper surveillance of 80 to 90 mines. The Inspectorate should be multiplied immediately. Similarly, the managers of coal mines are in short supply. Government should take immediate steps to remedy this. The Department of Mines made a plea that the duties of the Inspectors were clearly defined in the Act and that they were defective. While I personally do not agree with this point of view, it is as well to amend the Act and the Regulations to remove doubts.

Mining is the most dangerous profession. Accident rates in mines are 10 to 20 times those in factories and 3.5 times those in railways. Relentless forces of nature are to be contended with constantly and at every stage. Conditions do not remain static for any length of time. They change from day to day and even from hour to hour. The Department of Mines must not function purely on an advisory basis. It must have preventive powers. It is not enough for the Department of Mines to come in after the accidents have already taken place and lives have been lost. It is easy to be wise after the incident.

[No. MI-5(30)/58.]

New Delhi, the 26th July 1958

S.O. 1545.—In exercise of the powers conferred by section 4 of the Mica Mines Labour Welfare Fund Act, 1946 (22 of 1946), read with sub-rule (2) of rule 3 of the Mica Mines Labour Welfare Fund Rules, 1948, the Central Government hereby nominates Shri V. Srinivaschari, I.A.S., Collector of Nellore, to be a member of the Mica Mines Labour Welfare Fund Advisory Committee for the State of Andhra in place of Shri Mohammad Mohibulla, I.A.S., and directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Labour No. SRO 3233, dated the 12th October, 1954, namely:—

In the said notification for entry (1) the following shall be substituted, namely:—

“(i) Shri Srinivaschari, I.A.S., Collector of Nellore—Chairman.”

[No. M-III 23(2)58.]

B. R. KHANNA, Under Secy.

New Delhi, the 23rd July 1958

S.O. 1546.—In pursuance of clause (e) of sub-section (1) of section 10 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby nominates Shri D. P. Mukherjee to be a member of the Medical Benefit Council and makes the following amendment in the notification of the Government of India in the Ministry of Labour and Employment No. HI-1(1)/53, dated the 1st July, 1958, namely:—

In the said notification, under the heading 'Members', under the sub-heading '(Nominated by the Central Government under clause (e) of sub-section (1) of section 10 in consultation with organisations of employers recognised by that Government)', after item (18), the following item shall be inserted namely:—

“(18 A) Shri D. P. Mukherjee, C/o The Metal Box Company of India Limited, Barlow House, 59C, Chowringhee Road, Calcutta.”

[No. F. HI-1(1)/58.]

New Delhi, the 26th July 1958

S.O. 1547/PWA/14/No. 1/Am.3/57.—In exercise of the powers conferred by sub-section (3) of Section 14 read with section 24 of the Payment of Wages Act, 1936 (4 of 1936), the Central Government hereby makes the following further

amendments in the notification of the Government of India in the Ministry of Labour No. S.R.O. 984(PWA/14/N. 1/57), dated the 21st March, 1957, namely:—

In the said notification—

(i) in item No. 1, after entry 3, the following entry shall be inserted, namely:—

“4. Junior Labour Inspector (Central) with headquarters at Chanda”,

(ii) in item No. IV, after entry 3, the following entry shall be inserted, namely:—

“4. Junior Labour Inspector (Central) with headquarters at Katni”;

(iii) in item No. VI, after entry 7, the following entry shall be inserted, namely:—

“8. Junior Labour Inspectors (Central) in Dhanbad Region with headquarters at—

(i) Bermo.

(ii) Bhagmara.

(iii) Kharkharee.

(iv) Nirsa.

(v) Patherdih.

(vi) Sijua.

(vii) Sinidih.

(viii) Sitarampur.

(ix) Ukhara.”

[No. Fac. 103(37)/58.]

P. R. NAYAR, Under Secy.

New Delhi, the 24th July 1958

S.O. 1548.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal at Calcutta in the industrial dispute between the employers in relation to the Bombay Port Trust, Bombay and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1 Gurusaday Road, Ballygunge, Calcutta-19.

Reference No. 7 of 1957:

PARTIES

The Employers in relation to the Bombay Port Trust, Bombay

AND

Their workmen

PRESENT:

Shri A. Das Gupta, Presiding Officer.

APPEARANCES:

For the workmen:—Shri H. R. Gokhale, Advocate, and Shri S. R. Kulkarni, Secretary, Transport & Dock Workers Union, Bombay.

Shri H. N. Trivedi, President, Bombay Stevedores and Dock Labourers' Union.

For the Employers:—Shri S. D. Nariman, Legal Adviser, Bombay Port Trust, and Shri A. M. Shaikh, Additional Docks Manager, Bombay Port Trust.

AWARD

1. By Notification No. LR II-3(6)/57, dated the 22nd November, 1957, the Government of India, Ministry of Labour and Employment, in exercise of the powers conferred by section 7A, and clause (d) of sub-section (1) of section 10, of the Industrial Disputes Act, 1947 (XIV of 1947), has constituted an Industrial Tribunal with me as the Presiding Officer with headquarters at Calcutta and has referred to me for adjudication an industrial dispute between the employers in relation to the Bombay Port Trust and their workmen. The industrial dispute as specified in the schedule to the Order of Reference comprises eight items:

- (i) For purposes of leave salary, should "pay" mean average consolidated piece-rate earnings in the case of the piece-rated workers?
- (ii) For purposes of gratuity, should service rendered by the workers under the Toliwala or as casual of "B" category workers under the Port Trust be taken into account?
- (iii) Are the shore workers of categories "A", "B" and casuals entitled to receive any arrears on account of overtime for Sunday work and holiday work?
- (iv) Should all the shore workers including the casual workers of the Docks Department be paid time-rate wages equivalent to Rs. 4 and 19 naye paise per shift when employed on making room, warehousing work, collection of gear work or any other type of work done in the Docks Department?
- (v) Should special morphias of the Docks Department be given uniforms and water-proof coats?
- (vi) Should casual workers employed in the Docks Department be given free medical and hospital facilities?
- (vii) Should watchmen be given uniforms and warm clothes during the winter and if so, whether the uniforms should consist of full-pants or shorts?
- (viii) Should the uniforms of the watchmen and messengers be washed at Port Trust cost or whether they should be given a washing allowance?

2. Copies of the Order of Reference appear to have been forwarded by the Government to the Bombay Port Trust and the Transport and Dock Workers' Union, Bombay. On 11-12-1957 an application was received from the Bombay Stevedores and Dock Labourers' Union praying that it might be impleaded as a party to the present adjudication proceedings and might be posted with all notices. The dispute under Reference is between the Bombay Port Trust and their workmen. The mere fact that a copy of the Order of Reference was forwarded to the Bombay Port Trust and the Transport & Dock Workers' Union, Bombay, does not indicate that they are the only parties to the adjudication proceedings. The workmen have an inherent right, both under the Act and the rules framed thereunder, to be represented by any registered trade union of which they are members. Thus there cannot be any objection to the Bombay Stevedores & Dock Labourers' Union representing such workmen of the Bombay Port Trust covered by the Order of Reference as are members of the said Union. The prayer was accordingly granted and the Union filed its written statement and participated in the adjudication proceedings.

3. Prior to 1948 the Bombay Port Trust labour better known as dock labourer were supplied by Toliwallas who might be equated to contractors. During this period there was no regularity in the employment of the labourers. Under the Toliwallas the labour was entirely casual, and with a view to decasualise dock labour, a scheme was adopted by the Bombay Port Trust in April 1948 for direct employment of dock labourers. A copy of the scheme is Annexure Exhibit B to the written statement of the Bombay Port Trust. The dock labourers were time rated till the 2nd March, 1956. The scheme provided for two main categories—category "A" called non-scheduled permanent and category "B" called casual. The scheme also mentions a third category—purely casual commonly known as "rank casual". The third category shall be referred to hereinafter, for the sake of brevity, as category "C". The workers of the third category were to be employed to meet peak requirements and shortages due to excessive absenteeism. The main difference in the wages of the three categories was in respect of attendance allowance which was payable, for days when work could not be provided including Sundays, to the workers of category "A" at Annas -/12/- per day and to workers

of category "B" at Annas -/6/- per day. No such attendance allowance was available to the workers of category "C". In the matter of employment, the workers of category "A" had a prior claim over the workers of category "B". Under the Scheme, the bulk of the labour was to be in category "A" and the number of labourers in category "A" was fixed at 2,300 and the number in category "B" was tentatively fixed at 500. The number in category "A" was subsequently raised to 2557. The working of categories "A" and "B" is based on the booking of 'A' category, 'B' category workers being used to fill up gaps due to leave and absenteeism.

4. A controversy appears to have been raised, in course of framing the scheme, over the difference in the attendance allowance for the workers of categories "A" and "B". The matter came up for discussion in conciliation proceedings on the 9th July 1948. The Bombay Port Trust appears to have urged that "A" category was intended to be the back-bone and that "B" category was only meant to serve as nucleus for casual and unforeseen requirements and that they would eventually be absorbed in "A" category as vacancies occur or when it was proposed to augment the strength. It was further urged that "B" category labourers were not entitled to any attendance money, but that with a view to compromise, the Chairman had agreed to recommend to the Board the grant of an attendance money of Annas -/6/- per day to "B" category labourers. The controversy was subsequently dropped by the Union (Ext. 2 page 3). In the final Scheme, it was made clear that the grant of attendance money to 'B' category workers would not alter or affect the character of their engagement, namely "Casual". In an appeal against an award laying down a piece-rate-cum-incentive wage scheme for such of the dock workers as were actually employed for loading and unloading export and import cargo, a Special Bench of the Labour Appellate Tribunal appears to have reviewed the position under the scheme of 1948 and to have observed that "A" category is supplemented by "B" category. I may have occasion to discuss this point at some length later.

5. Under the scheme of 1948 as supplemented by an agreement dated 13th November 1948, the different categories of workers were placed on incremental scales of pay as indicated below:

- (1) Gang Workers Rs. 2/2/- — 1 anna/2 yrs. — Rs.2/8/-
- (2) Baroots and Morphas Rs. 2/10/- — 1 anna/2 yrs. — Rs.3/-
- 3) Special Morphas Rs. 3/2/- — 1 anna/2 yrs. — Rs.3/8/-

The Cart and Wagon Unloaders who were working on piece rate were to be paid from 1st April 1949 at time rates to be determined by the Trustees in consultation with the Union. They were subsequently placed on the scale Rs. 3/2/-—1 anna/2yrs.—Rs. 3/8/-. The rates of pay were made up of basic pay, house rent allowance and compensatory allowance. I may have occasion to discuss the wage structure and its components under the Scheme later.

6. For a clear appreciation of the contentions of the parties some of the prominent conditions of service under the scheme of 1948 may be a little relevant. These are detailed below:

- (a) Leave salary will be calculated on the average wage earnings of the past six months plus dearness allowance, if admissible under the rules applicable to the non-scheduled staff.
- (b) Labourers in category "A" will be entitled, with effect from 1st April 1948, to the benefits of Provident Fund and special contribution, leave and holiday.

(It may be mentioned here that both parties agreed that the special contribution is what is commonly known as gratuity).

Provident Fund subscriptions and special contributions were to be calculated under the scheme on the following time scales of wages:

| | |
|----------------------|-------------|
| Labourers | ... 35—1—40 |
| Morphias and Baroots | ... 48—1—53 |
| Special Morphas | ... 55—1—60 |

The labourers' previous service with Toliwallas was to be taken into account for the purpose of the condition 15 years' minimum service to qualify special consideration.

- (c) Labourers will be allowed off on Sundays and sanctioned Holidays. It will, however, be obligatory on them to attend on those days, if required by the Administration, in which case they will be entitled to wages at special rates provided under item (3)—Terms of Payment. (Item 4—Other Service Conditions and Benefits).
- (d) Labourers in both categories (A & B) will be entitled to wages at 1½ times their normal rate of wages if called upon to work on Sundays or sanctioned holidays or for work done outside the regular hours of a shift. Eight hours will constitute a shift. (Item 3—Terms of Payment).

7. The scheme was the outcome of a settlement in conciliation proceedings following a charter of demands coupled with a threat of strike served on the Bombay Port Trust. (Annexure Exhibit A to the B.P.T.'s written statement). By clause (2) of the settlement, the Bombay Port Trust was authorised to frame a scheme for direct employment of Port Trust labour. A draft scheme was prepared and comments were invited from the Union. The draft scheme was discussed and the scheme was finalized in collaboration with the Union. The settlement was not complete without the scheme and I cannot but agree with Shri Nariman that the Scheme formed part of the settlement arrived at in the conciliation proceedings. The final scheme was accepted by the Union and as it has not been terminated by any party, it represents the terms of conditions of service of Bombay Port Trust Labour even to this day except the system of payment and connected matters which had to be modified on very justifiable grounds which I shall presently discuss.

8. The Minimum Wages Act, 1948, came into force in 1948. It provides for fixation of minimum wage rates for employments listed in the schedule to the Act. Employment under the Bombay Port Trust comes under the Minimum Wages Act. The Act effected some improvements in the service conditions of workmen in general as defined in the Act, specially in respect of minimum rates of wages, hours of work and overtime payments. By separate notifications issued on different dates, minimum wages were fixed under the Act for different categories of workmen under the Bombay Port Trust. The earliest of these notifications was to take effect on and from the 15th March 1951. The Board of Trustees, by Resolution No. 569, dated 11th August 1953, extended the benefits under the Minimum Wages Act with retrospective effect from the 15th March 1951 to all such employees of the Bombay Port Trust as were eligible under the Act irrespective of any consideration whether they were notified or not and in the case of those who were notified, irrespective of the date of the notification. The Act lays down the principles and the Rules framed thereunder indicate the details and the mode of implementing the principles. The rule although providing for payment for overtime work in general do not provide for any special treatment for work on weekly off days and holidays. Wages are to be fixed on the basis that a day should not be more than 8 working hours and a week should not be more than 48 working hours. For hours worked in excess of these statutory limits, a worker is entitled to payments at double the "ordinary rate of wages" which has been defined in Rule 25 of the Rules under the Act to mean "the basic wage plus such allowances including the cash equivalent of the advantages accruing through the concessional sale to the persons employed of food grains and other articles as the person employed is for the time being entitled to but does not include a bonus." Resolution No. 569 is said to have been implemented in October 1953 and the workers of categories "A" and "B" ceased to be employed on weekly off days and holidays from November 1953.

9. Obviously, work on weekly off days including Sundays and holidays is not entitled to any special treatment under the Minimum Wages Act. Such work is to be paid for under the Minimum Wages Act at ordinary rates of wages unless the number of hours worked on any of these days exceed 9 hours or the total number of hours worked in the week of which the weekly off day or the holiday is a part exceed 48 hours, in which case the worker has to be paid at overtime rates for the hours worked in excess of the statutory limits.

10. The Port Trust labour of categories "A", "B" and "C" come within the purview of the Minimum Wages Act. But as the Minimum Wages Act provides a weekly off only after continuous 6 days' work, the workers of category "C" (rank casual) who are not generally employed for consecutive 6 days are not entitled to any weekly off. If they are employed for consecutive 6 days, they are entitled to one day off after 6 days' work. The Port Trust labour of all the three categories are daily rated. The daily rates of wages are fixed on a principle which ensures

to a worker wages for 7 days of the week including the weekly off day, provided he works for 6 days and are paid therefor at the daily rate. Thus a daily rated worker is constructively paid for the seventh day of his employment, he is not paid separately for the weekly off day. The principle was discussed by me at length in an award relating to the Bombay Port Trust and their workmen (Reference No. 6 of 1957) published in the Gazette of India dated the 29th March, 1958.

11. The workers demanded 12 holidays per year and Sunday off with full pay and allowances and this demand along with some other demands came up before Shri S. H. Naik in 1952 for adjudication (IT-CG No. 1 of 1952). Shri Naik gave an award rejecting the demand. But as the workers in their written statement pleaded that they were being paid at $1\frac{1}{2}$ times their basic wages for such work although under the Scheme for Direct Employment of Labour, they were to be paid at $1\frac{1}{2}$ times normal rates of wages. The workers contended that the normal rates of wages should include dearness allowance. Shri Naik considered the basic principle for providing dearness allowance and definition of 'wages' in the Payment of Wages Act and Factories Act, and directed:

"The Port Trust will have therefore to pay wages to the labourers attending the docks on Sundays and holidays at $1\frac{1}{2}$ times of their daily basic wage plus dearness allowance. I direct accordingly."

Shri Naik does not appear to have directed any retrospective effect of his award. Exts. E-4 and E-4(a) are the relevant extracts from the workers' written statement and Shri Naik's award.

12. As I have already indicated, Toliwala system was abolished and the dock labourers were brought under direct employment of the Bombay Port Trust on time rates with considerable improvements in their service conditions. The time rate system of payment in respect of such of the dock labourers as were employed in loading and unloading of cargo into and from the ships (commonly known as 'shore workers' as distinguished from stevedore labour working in hatches of ships) eventually proved unsatisfactory. With a view to ensure a fair wage to the workers as well as a minimum output, the shore workers had to be brought on a piece-rate cum-incentive wage scheme by an award of Shri Meher (published in the extraordinary issue of the Gazette of India dated 13th June 1955) as modified by the decision of a Special Bench of the Labour Appellate Tribunal dated 1st February, 1956. Both the primary adjudicator and the Special Bench of the Labour Appellate Tribunal made it abundantly clear that the reference which led to the introduction of the piece-rate-cum incentive wage scheme involved only those categories of workers on whose co-ordinated efforts depended the efficient loading and unloading of cargo into and from vessels. It, therefore, follows as a corollary that the wage scheme as awarded by Shri Meher and modified by the Special Bench of the Labour Appellate Tribunal was applicable to the Port Trust labourers only when they were actually employed in loading and unloading of cargo into and from the vessels, and when they were so employed, loading, and unloading of cargo of different types and trades specified in Appendix B of the decision of the Labour Appellate Tribunal were to be paid for on piece rates. No suitable piece rate scheme could be devised in respect of scrap iron or import iron or import steel or import bulk cargo. Loading and unloading of these commodities were accordingly to be paid at the 'daily wage rate' made up of the basic wage, house rent allowance, compensatory allowance, dearness allowance and processing allowance of the lowest category plus the differential, if any, of the worker concerned. "Daily wage rate" was undoubtedly an innovation and should not be confused with what is called "time rate" which does not include processing allowance. With a view to ensure that the earnings of a worker under the piece rate system generally might not fall below his time rate earnings, a special allowance was added to the total wages of the worker for the purpose of processing the piece rates. This special allowance is called "processing allowance." The distinction between the "daily wage rate" and the "time rate" has clearly been defined in paragraph 153 of the decision of the Labour Appellate Tribunal. Both the adjudicator and the Labour Appellate Tribunal were in agreement that the existing time rate wages of the Port Trust labour were adequate, presumably for works which were paid for in the past on time rates, and were not brought on the piece-rate-cum-incentive wage scheme and are to continue to be paid for on time rates as before. Neither the award of Shri Meher nor the decision of the Labour Appellate Tribunal has brought in any change in the wage rates for such works.

13. Some of the benefits available to the workers under the scheme of direct employment were linked with wages which were generally uniform under the time rate system, except when a worker earned an increment within his grade in which case there was slight variation in the average. The Government while

making the Reference under section 10 of the Industrial Disputes Act, 1947 had reasons to think that there was possibility of the time rate system being replaced by piece rate system or some other system of Payment by Results, under which the earnings of a workman might fluctuate from day to day and that such fluctuations might present difficulties in the computation of the benefits linked with wages which were on time rate basis in the past. With a view to eliminate difficulties and disputes in the matter, computation of Provident Fund contributions, gratuity and leave salary, overtime payment and payment for works on weekly offs and holidays, in the event the time rate system was replaced as indicated above, the Government, in its wisdom, called upon the adjudicator to decide the following issues which follow as corollaries to issues (i) to (v) which referred to the system of wage payment to be devised:

Issue (6).—What should be the basis of calculating Provident Fund contribution, gratuity, leave salary, etc. under the new system of wage payment recommended?

Issue (7).—For workers not covered by the Minimum Wages, in what circumstances and under what limitations should overtime be paid and at what rates?

Issue (8).—What should be the rate of payment for work on weekly rest days and closed holidays?

14. We are not here concerned with Provident Fund contributions and gratuity but as the Labour Appellate Tribunal laid down the same principle for determining the basic wage for the purpose of computing all these benefits, to avoid any misconception, I propose to refer to the principle as laid down by the Labour Appellate Tribunal.

15. The monthly wages of the different categories of Port Trust labour before the introduction of the decasualization scheme were the actual wages, and under the decasualization scheme the mean of the minimum and the maximum of the monthly scale has been taken as the minimum of the daily wage scheme as indicated below:

| Serial No. | Old scale of wage (Monthly) | Mean of column | Components of the starting wage of the present scale | Starting wage of the present scale |
|------------|-----------------------------|----------------|---|------------------------------------|
| 1 | 2 | 3 | 4 | 5 |
| 1 | Rs. 35—40 | Rs. 37 8/- | Basic Rs. 37/8/- + H.R.A. Rs. 10/- + C.A. Rs. 7 8/- | |
| | | | 26 | Rs. 2/2/- |
| 2 | Rs. 48—53 | Rs. 50/8/- | Basic Rs. 50/8/- + H.R.A. Rs. 10/- + C.A. Rs. 7/8/- | |
| | | | 26 | Rs. 2/10/- |
| 3 | Rs. 55—60 | Rs. 57/8/- | Basic Rs. 57/8/- + H.R.A. Rs. 15/- + C.A. Rs. 7/8/- | |
| | | | 26 | Rs. 3 2/- |

16. As I have already pointed out, under the Direct Employment scheme, the Port Trust adopted the old scale of pay for the purpose of Provident Fund and gratuity scheme. The Labour Appellate Tribunal observed that there was no reason for adopting the artificial scales of wage for the purpose of the Provident

Fund scheme bearing only a remote relation to the actual wage. The scales laid down by the Labour Appellate Tribunal for this purpose were:

| | | | |
|------------------------|-------------|------------------|------------|
| Gang Workers | Rs. 37/- | $\frac{1/10}{2}$ | Rs. 47/4/- |
| Morpias & Baroots | Rs. 50/8/- | $\frac{1/10}{2}$ | Rs. 60/4/- |
| Cart & Wagon Unloaders | Rs. 65/10/- | $\frac{1/10}{2}$ | Rs. 75/6/- |

Labour Appellate Tribunal also directed that half the dearness allowance should be added to the above basic wage scale for the purpose of determining Provident Fund subscription and special contribution. Then a general direction was given by the Labour Appellate Tribunal as to how the dearness allowance, house rent allowance and compensatory allowance were to be calculated.

"The basic wage scales as fixed above shall be the basis for determining the dearness allowance. The basic wage cum dearness pay scales shall be the basis for determining other benefits dependent on basic wage, e.g. house rent allowance and compensatory allowance.

* * * * *

It will be convenient to adopt for the purposes of these allowances for B category labour the same basis as we have adopted for A category labour. We make a direction accordingly."

17. For the purpose of computation of the leave salary the Labour Appellate Tribunal discussed the rule as laid down in the Direct Employment Scheme to which I have already referred. The rule cannot be considered in isolation divorced from the context. The 'shore workers' were on time rates and the rule must be read in relation to the then wage system. Now that the wage system which was the basis of calculation of leave salary has been altered, literal application of the rule in the changed circumstances cannot but lead to absurd results. The rule must accordingly be modified consistently with the change and the Labour Appellate Tribunal directed that for application of the leave rules under the direct employment scheme the basic wage should be the basic wage scale fixed for the purpose of calculating Provident Fund contribution and special contribution. This direction of the Labour Appellate Tribunal was obviously for workers of "A" and "B" categories. This is clearly indicated in the observation of the Labour Appellate Tribunal in Para. 265 of its decision:

"The rank casuals are engaged on the same daily wage as "A" and "B" category labour, that is to say the total of the basic wage, dearness allowance, house rent allowance and compensatory allowance. The employment of rank Casuals is strictly for the shift and therefore no problem arises as regards the basis for determining other benefits in their case."

18. The rules for payment for overtime work to workers as laid down by the Labour Appellate Tribunal were:

- (i) Time rated workers shall get payment for overtime work at $1\frac{1}{2}$ times their total normal wages made up of basic wages and all allowances.
- (ii) Piece rated workers shall get, in addition to the piece rate for the output during the overtime including recess periods, $\frac{1}{2}$ their normal wage viz. basic wages and all allowances. Processing allowance shall also count for this extra payment.

For hourly rate of overtime for workers working on night shifts, the direction was that normally hourly wages for workers would be $\frac{1}{8}$ th of the daily wages. These rules can apply to casual workers as well. It may be noted that the employers were agreeable to consider work beyond six hours of the night shift as overtime work.

19. The directions for work on weekly rest days and closed holidays were given in paragraphs 252 to 255. They are:

- "252. Work on weekly rest days and closed holidays stands on a different footing. The purpose underlying the provisions of weekly rest days and holidays is not only to give a periodical rest to the worker for the sake of his efficiency but also to enable him to participate in social and family life.

253. We, therefore, direct that compensation for such work be paid on the following basis:—

- (1) Time Rated workers shall get twice their normal rates of wages for work on weekly rest days and holidays.
- (2) Piece Rated workers shall get their normal piece rates for their total output on a weekly rest day or a closed holiday plus their normal time rates for one day. Processing allowance shall count towards this extra allowance:

Provided that where a worker is given an alternative day of rest in place of the weekly day of rest, the extra payment for him shall be only half the normal wage. Any period of work less than a shift on weekly rest days and holidays shall count as one full shift.

254. Casual workers are not generally entitled to weekly rest days. They shall be entitled to the extra allowance provided for work on holidays but not for work on weekly rest days; provided that, where a casual worker who has been employed for six consecutive days is employed on the seventh day, this rule shall apply as if he is employed on a holiday.

255. These rules for payment for overtime work and for work on weekly rest days and holidays shall, in the absence of specific provision to the contrary, apply to all workmen covered by the reference in supersession of what the Adjudicator has given."

These directions of the Labour Appellate Tribunal were to take effect from the date on which the decision became operative. The decision was given on the 1st February, 1956. Evidently, therefore, these directions took effect from the 3rd March, 1956.

20. Payment for work on weekly off days from the 15th March, 1951 to the 2nd March, 1956 without a compensatory day off in lieu was the subject matter of adjudication in Reference No. 6 of 1957. The award which followed was published in the Gazette of India dated 29th March, 1948. It has been decided that during this period the workers were paid according to the provisions of the Minimum Wages Act and the rules framed thereunder and nothing was due to them except to the Special Morphias who were paid differently on the ground that they belonged to the supervisory category and were not covered by the Minimum Wages Act. They were on the scale Rs. 3/2/- to Rs. 3/8/- and they were paid under the scheme for Direct Employment of labour for work on weekly rest days at the rate of Rs. 4/11/- to Rs. 5/4/- whereas a gang worker received under the Minimum Wages Act for work on weekly rest days at the rate of Rs. 7/8/- to Rs. 8/2/-. The position seemed rather anomalous and on equitable grounds and in the interest of peace in the industry, I directed that the Special Morphias should be paid the difference between the double their wages inclusive of all allowances less what they had been paid under the scheme for Direct Employment of labour.

21. I have discussed the development of the service conditions of Port Trust labour since the abolition of the Toliwala system. This development has, in my opinion, some bearing on Issues (ii) to (iv) of the present Reference and these four issues must be adjudicated upon against the background of this development. I shall now take up the several items of dispute referred to me for adjudication.

Issue (i)—For the purposes of leave salary, should "pay" mean average consolidated piece-rate earnings in the case of the piece-rated workers?

22. Labour demands that under the piece-rate-cum-incentive wages scheme, the average consolidated piece-rate earnings of a worker should be his pay for the purposes of leave salary. Shri Nariman opposes the demand and urges that the matter has been settled by the decision of the Labour Appellate Tribunal in Bombay Dock Labour Appeals dated the 1st February, 1956.

23. On behalf of the Bombay Port Trust Shri Nariman has raised two-fold preliminary objections against this demand. Firstly, he assails the validity of the Reference. Shri Nariman refers to the second proviso of sub-section (3) and sub-section (6) of section 19 of the Industrial Disputes Act, 1947 and urges that as the Government has extended the period of operation of the award of Shri Meher as modified by the decision of the Labour Appellate Tribunal dated 1st February, 1956 to the 3rd March, 1959 (Ext. E/1) and as neither party has terminated the award by notice as contemplated by section 19(6), the award must be deemed to be still in force and binding on the parties. So long as an award is binding on the parties,

Shri Nariman contends, the dispute covered by the award can have no legal existence under the scheme of the Act and cannot hence form the subject matter of a valid Reference under section 10 of the Industrial Disputes Act, 1947. This contention of Shri Nariman has considerable force and I cannot but accept it. It is as much obligatory on the Government as on the parties to respect the scheme under the Act and to abide by the intention of the legislature. A contrary view will make nugatory the sub-sections (3) and (6) of section 19 of the Industrial Disputes Act, 1947 which were enacted on very sound considerations. I am accordingly to hold that the present reference in respect of Issue (i) is *ultra vires* of the Government.

24. Even assuming that in making the Reference which is only an administrative act, the Government is not under any obligation to examine the legal aspect of the question and is at liberty to proceed on the factual existence of the Dispute, re-agitation of the demand relating as it does to a long term scheme is barred by the previous decision on principles analogous to *res judicata*. The principle cuts at the very root of the jurisdiction of the Tribunal to re-open the subject matter of a prior adjudication or decision. I have discussed the principle in some of my awards for Bombay Port Trust and their workmen and I do not propose to repeat the discussion here over again. As an authority on this point the Hon'ble Supreme Court decision reported in the case of Messrs. Burn & Co., Howrah (Reported in 1956 L.A.C. p. 799) may be referred to. As labour has not suggested any change in the basic circumstances since the decision of the Labour Appellate Tribunal on this point, the decision of the Labour Appellate Tribunal which I have already indicated shall stand.

Issue (ii).—For the purposes of gratuity, should service rendered by the workers under the Toliwala or as casual or "B" category workers under the Port Trust be taken into account?

25. Labour demands that the services of the workers under the Toliwalas as also in category "B" and as casual workers may count for computation of gratuity. In support of this demand Shri Gokhale appearing for the labour has urged the following points:

- (a) Even during the Toliwala period the workers in question were in fact Port Trust employees and abolition of the Toliwala system was only a change in the employment agency. Shri Gokhale urges where there has not been any break in the continuity of service of a workman, change of employers cannot be pleaded by the new employer against the claim of the workers for gratuity for the period of his employment under his predecessor.
- (b) "B" category workers, who are direct employees under the Bombay Port Trust amenable to disciplinary action even amounting to removal of his name from the register for failure to attend at the call stand and who have a right to employment after "A" category workers are employed and the continuity in whose employment is maintained by the attendance allowance are to all intents and purposes permanent workers like category "A" workers.
- (c) The service of casual workers who are direct employees are given identity cards and are eligible to promotion to "B" category should be entitled to the benefit of gratuity as much as "A" category workers. In support of his demand Shri Gokhale urges that the services of the stevedore labour which was employed in the past under a *scrag* system is being taken into account in the computation of gratuity.

26. Shri Nariman has raised a preliminary objection about the maintainability of the demand. His contention is that the scheme was the result of a settlement between the parties under which only "A" category workers are entitled to benefits and that, with effect from 1st April, 1948. As the Scheme does not include the demands which have been canvassed before this Tribunal, Shri Nariman urges, re-agitation of the demand is barred by section 19(2) of the Industrial Disputes Act, 1947.

27. The mere fact that the demands were not included in the scheme cannot lead to the conclusion that the parties agreed to exclude the service of the workers under the toliwala or in category "B" or as casual workers for the purpose of computation of the benefit. When the scheme was introduced none of the "A" category workers had ever worked in category "B" or as casual workers directly under the Bombay Port Trust. These categories of workers were the creation of the scheme. It, therefore, stands to reason that the scheme which was introduced to settle a dispute existing at the time did not contemplate a controversy which

was not suggested then. Hence on these points, my inference is that either the demands were not pressed or the Port Trust did not concede to the demands. In either view the demands cannot be rejected on the ground that there had been a definite settlement on this point. I cannot accordingly uphold the preliminary objection of Shri Nariman.

28. Gratuity is intended to be a provision in old age for long continuous faithful service of an employee. The trend of industrial adjudications and decisions is that wherever the financial position of an industrial undertaking permits, a gratuity scheme should be introduced, and that employees who have put in sufficient continuous service will be eligible for such gratuity. To qualify for gratuity, an employee is required, under almost every scheme, to put in a fair period of continuous service as the minimum requirement. This minimum period of continuous service is sometimes relaxed in special cases under special circumstances, but in no case gratuity is payable for temporary service far less for casual employment.

29. I have clearly indicated that the labour under the Toliwala was entirely casual. Category "B" workers are also casual. It has been made abundantly clear in the Scheme for Direct Employment of labour as also in the discussions that preceded finalization of the scheme that attendance money was provided for "B" category workers as a matter of grace by way of compromise and that such attendance money would not change their basic status. A condition was attached to this *ex-gratia* payment. This *ex-gratia* payment cannot be claimed to be at par with other payments which a particular category of workers get as of right, in total ignorance of the condition. I have already indicated that under the Scheme which is binding on the parties, the "B" category workers are casual, and the attendance money did not in any way alter their status. Temporary or casual workers are also subject to disciplinary action and provision for such disciplinary action does not alter the status of the workers. Employment of casual workers of category "C" is for the shift only. Identity cards are necessary for all who have to enter the Port Trust premises. Identity cards are not indicative of the nature of employment and payment.

30. Benefits which are dependent on continuous service such as leave, Provident Fund, have not been extended to "B" category workers and rank casuals. Ext. E/5 is an extract from the register of "B" category workers which show that absence of "B" category workers in the year 1957-58, was between 49 and 287 days. On the materials before me I cannot but hold that "B" category workers and the casuals have no continuity in their employment to entitle them to the benefit of gratuity. The demand of the workers under this issue is accordingly rejected.

31. Now that the Bombay Port Trust has agreed to take into account all the gross period of employment of the Dock Workers under the Toliwala for the purpose of determining the eligibility of the workers for the benefit of gratuity, I recommend that the employment of workers in category "B" shall likewise be taken into account for the purpose of determining eligibility of the workers for the benefit of gratuity when they are transferred to category "A".

Issue (iii).—Are the shore workers of categories "A", "B" and Casuals entitled to receive any arrears on account of overtime for Sunday work and holiday work?

32. Some controversy arose about the scope of this issue. However, Shri Nariman very fairly conceded that the issue relates to payment for overtime work, Sunday work and holiday work.

33. I am accordingly called upon to enquire if any arrear is due to the workers of the three categories "A", "B" and "C" (casual) on account of overtime work, Sunday work and holiday work. The issue, as it stands, does not specify the periods to which the enquiry is to relate. The enquiry which cannot, therefore, be limited in any way should be from the very beginning of employment of the workers under the Scheme for Direct Employment of labour. As already indicated, the service conditions of the Port Trust labour was not uniform throughout. There were improvements from time to time either as an effect of legislation or of an award. The first stage started with the introduction of the Scheme for Direct Employment of labour which came into force on 1st April, 1948. The second stage started from 15th March, 1951 i.e., from the date with effect from which the benefits under the Minimum Wages Act and the Rules framed thereunder were made applicable, by a resolution of the Board of Trustees, to such of the workers of the Bombay Port Trust as were eligible under the Minimum Wages Act. The implementation of the resolution of the Board

in October 1953 marks the starting point of the third stage. The fourth stage starts with the introduction of the piece-rate-cum-incentive-wage scheme in 1956. The stages of enquiry shall accordingly be

- (i) 1st April, 1948 to 14th March, 1951,
- (ii) 15th March, 1951 to October, 1953,
- (iii) November, 1953 to 2nd March, 1956, and
- (iv) 3rd March 1956 onward

The subject matter of the enquiry shall be the overtime rates, wages for Sunday work and holiday work for workers of all these three categories

(i) 1st April, 1948 to 14th March 1951—The demand for this period hinges on a correct interpretation of the scheme for Direct Employment of labour about the term for payment for overtime work on Sundays and holidays. Workers of "A" and "B" categories were to be paid for overtime work and for work on weekly off days, and holidays at $1\frac{1}{2}$ times their normal rates of wages. Although the rule was intended for only "A" and "B" categories of workers, rank casuals were also paid according to this rule as a matter of grace. As I have already mentioned, the scheme was the outcome of a settlement in conciliation proceedings and that the final scheme was settled in collaboration with the Union. I am told that "A" and "B" categories were never employed on sanctioned holidays. The Bombay Port Trust paid the workers of all the three categories under the rule embodied in the scheme at $1\frac{1}{2}$ times the basic wage rates, compensatory allowance and house rent allowance but exclusive of dearness allowance, and the workers appear to have accepted such payments without any demur, presumably in full satisfaction of their dues till at least 1952 when the workers appear to have raised the contention for the first time that normal rates of wages should be inclusive of all allowances. The Factories Act provides that overtime payments should include dearness allowance but the Dock Workers would not come under the Factories Act. In 1951 some categories of Dock Workers were notified under the Minimum Wages Act and were thus made eligible for the benefit under the Act. Under the Minimum Wages Act overtime payment were to be inclusive of all allowances. The Minimum Wages Act appears to have been responsible for the workers' demand for inclusion of all allowances in the overtime payments.

34 The facts that this scheme was the outcome of a settlement in conciliation proceedings and was settled in collaboration with the unions and that the Bombay Port Trust made the payments exclusive of dearness allowance and the workers accepted such payments without any demur in full satisfaction of their dues lead to the irresistible conclusion that the parties were in agreement about the interpretation of the term "normal rates of wages", and that the payments were made in conformity with the agreed interpretation. Shri Naik's award which does not appear to have been given any retrospective effect did not in any way alter the position upto at least 14th March 1951. My finding, therefore, is that nothing is due to the workers from 1st April, 1948 to 14th March, 1951.

(ii) 15th March, 1951 to October 1953—As I have already mentioned "A" and "B" categories of workers were not employed on sanctioned holidays after the scheme for Direct Employment for labour. The workers of all the three categories continued to be paid according to the scheme, and after the decision was taken by the Bombay Port Trust to extend the benefits under the Minimum Wages Act to all workers with effect from 15th March 1951, some payments were admittedly made to the workers in October 1953 by way of adjustment. The question whether there was any arrear due to the workers in respect of work on weekly off days during this period came up before me for adjudication in respect of Sundays (weekly off days) in Reference No. 6 of 1957. I held an enquiry and my award was that nothing was due to the workers on this account for this period. The award was published in the Gazette of India dated 29th March, 1958. During this period the workers of all the three categories were entitled to payment for overtime work according to the rules under the Minimum Wages Act provided they were workmen within the meaning of the Act, and the workers of category "C", who were not entitled to any sanctioned holiday under the scheme were to be paid at single rate of their wages inclusive of all allowances. They have been so paid.

(iii) From November 1951 to 2nd March 1956—Workers of categories "A" and "B" were not worked on Sundays and sanctioned holidays during this period. They were paid for overtime work according to the Minimum Wages Act and the Rules framed thereunder at double their ordinary rates of wages inclusive of all allowances. Workers of "C" category were entitled to payment

for overtime work according to the Minimum Wages Act. They were not normally entitled to any weekly off or any holiday sanctioned under the scheme. A worker who has worked for 6 consecutive days may claim a day off. The rank casuals were employed only to meet peak requirements or shortages due to excessive absenteeism. It has not been suggested by the Union that the rank casuals were ever employed for six consecutive days so as to be entitled to a day off and that they were employed also on the 7th day. These rank casuals were accordingly entitled during this period to payment for work on Sundays and sanctioned holidays at single rate of their wages inclusive of all allowances. This has been paid.

35. The question arises as to whether Shri Naik's award affects the scheme for Direct Employment of labour in any way. The issue before Shri Naik for adjudication was whether the workers should be given 12 holidays pay year and Sunday off with full pay and allowances. In placing the grievance, the workers contended that they were being paid for such work at $1\frac{1}{2}$ times their basic wages exclusive of dearness allowance although under the scheme they were to be paid at $1\frac{1}{2}$ times their normal rate of wages which should be inclusive of all allowances. The main issue was decided by Shri Naik against the workers. With a view to remove the grievances of the workers about the payment for work on Sundays and holidays, Shri Naik considered the grievances of the workers, although it was not an issue before him, and directed that all labourers who attended the Docks on Sundays and holidays should be paid at $1\frac{1}{2}$ times or daily basic wages plus dearness allowance. Shri Nariman contends that this direction of Shri Naik was without jurisdiction. He has referred me to section 10 sub-section (4) of the Industrial Disputes Act, 1947. Shri Nariman urges that Shri Naik should have confined his adjudication only to those points which were mentioned in the Order of Reference. I cannot but accept this view of Shri Nariman. All that can I say is that the direction of Shri Naik about the payment for work on Sundays and holidays can at best be regarded as a recommendation. The Bombay Port Trust does not appear to have accepted this recommendation and in fact a gratuitous recommendation by an adjudicator cannot alter the terms and conditions of service of the workers. I am accordingly of the opinion that Shri Naik's direction or recommendation did not alter the position as discussed by me.

(iv) 3rd March 1956 onwards.—The directions of the Labour Appellate Tribunal in its decision, dated 1st February 1956 are exhaustive on this point and there has been no complaint that the workers have not been paid according to this direction.

36. As to what is still due according to the Unions, the demands as formulated in their pleadings are sufficiently indicative. No demand has been made for overtime work in the past and I may safely presume that nothing is outstanding for overtime work. The Transport & Dock Workers Union demands that the workers of all the three categories should be paid for overtime arrears for works on Sundays and holidays the difference between $1\frac{1}{2}$ times their basic wages which were actually paid to the workers upto 1953 and $1\frac{1}{2}$ times the total wages inclusive of all allowances and that for the period after 1953 the casual workers should be paid for arrears for works on Sundays and holidays at $1\frac{1}{2}$ times at normal rate of wages inclusive of all allowances. The Bombay Stevedores & Dock Labourers Union contend that the Bombay Port Trust paid the "A" and "B" category workers for work done on Sundays and holidays at $1\frac{1}{2}$ times their total wages inclusive of all allowance but that the casual workers have been paid at single normal rate for work on Sundays and holidays. It demands that the casual workers should be paid in the same way as the "A" and "B" category workers are being paid with some retrospective effect. It also demands that for the period upto 1953 all the three categories of workers should be paid the difference between $1\frac{1}{2}$ times their normal rates of wages inclusive of all allowances and $1\frac{1}{2}$ times their basic wages as already paid for arrears on account of work on Sundays and holidays.

37. As no demand has been made by the Unions for any outstanding dues in respect of overtime work in general, I may presume that nothing is due on account of such overtime work to the workers of any of the three categories. During the period 1st April, 1948 to 14th March 1951 all the three categories of workers were employed on Sundays and "C" category workers on sanctioned holidays as well and were paid at $1\frac{1}{2}$ times of their wages exclusive of dearness allowance. This was according to the scheme for Direct Employment of labour and my finding is that nothing is due for work on Sundays and holidays during this period.

38. For the period 15th March 1951 to October 1953, the workers of "A" and "B" categories were employed only on Sundays and workers of the "C" category were employed both on Sundays and sanctioned holidays. They were paid at $1\frac{1}{2}$ times of their wages exclusive of dearness allowance but subsequently in October 1953 there was an adjustment whereby "A" and "B" categories of workers were paid at double the ordinary rates of wages according to the Minimum Wages Act inclusive of all the allowances and "C" category workers who were not entitled to any weekly off days or sanctioned holidays were paid the difference between their wages at single rate inclusive of dearness allowance less $1\frac{1}{2}$ times their wages exclusive of dearness allowance as already paid. Nothing is due to the workers for this period also.

39. For the period from November 1953 to 2nd March 1956 "A" and "B" categories of workers were not employed on Sundays and sanctioned holidays. Workers of "C" category who were employed on Sundays and holidays were paid at single rates of their wages inclusive of all allowances. Nothing is due to the workers for this period as well.

40. From the 3rd March 1956 onward the workers are paid according to the piece-rate-cum-incentive wages scheme as finalized by the Labour Appellate Tribunal by its decision, dated 1st February, 1956. Nothing is due for this period as well.

I award accordingly.

Issue (iv).—Should all the shore workers including the casual workers of the Docks Department be paid time-rate-wages equivalent to Rs. 4 and 19 naye paise per shift when employed on making room, warehousing work, collection of gear work or any other type of work done in the Docks Department?

41. It has been made abundantly clear in the award of Shri Meher as also in the decision in appeal of the Special Bench of the Labour Appellate Tribunal that the piece-rate-cum-incentive-wages scheme was applicable only to workers employed for loading and unloading of cargo into and from the ships. Other works were outside the scope of the scheme. These were paid for in the past and continued to be paid for after the introduction of the aforesaid scheme at the time-rate which according to both the primary tribunal and the Labour Appellate Tribunal was adequate. This time-rate does not include processing allowance. Some specific works connected with the loading and unloading of cargo into and from the ships for which no workable piece rate scheme was possible are to be paid for under the direction of the Labour Appellate Tribunal at 'daily wage rates' which include the processing allowance. Such works as have not been so specified in the decision of the Labour Appellate Tribunal and for which no such specific direction has been given are to be paid for at time rates made up of basic wage, house rent allowance, compensatory allowance and dearness allowance but not processing allowance. The Bombay Port Trust has in the case of these workers also made some adjustment about the compensatory allowance and the house rent allowance on the consideration that 50 per cent of the dearness allowance should be regarded as dearness pay and has been paying the workers even for such works as are not covered by the piece-rate-cum-incentive-wage scheme with the adjustment. This shall continue. This is my award.

Issue (v).—Should special morphias of the Docks Department be given uniforms and water-proof coats?

42. Some trained supervisors have been appointed for effective supervision of the works of the shore workers. Special morphias have thus become redundant after the appointment of such supervisors. The posts of special morphias are now in the process of liquidation. In the Bombay Port Trust proposal to abolish the posts gradually by not filling up the vacancies as and when such vacancies arose appears to have been approved of by Shri Naik [Ext. E/4(a)]. As matters stand to-day, the very few special morphias who still continue, as the Bombay Port Trust alleges, has no work to-day. They do not do any work either manual or supervisory, nor are they required to do any such work. In these circumstances I cannot concede to the demand of the Union for uniform and water-proof coats for special morphias.

Issue (vi).—Should casual workers employed in the Docks Department be given free medical and hospital facilities?

43. Rank casuals are employed for particular shifts without any continuity of service. The contractual relation between them and the Port Trust is confined

to the shift during which they are actually employed. They have no contractual rights, as observed by the Labour Appellate Tribunal (Annexure Ext. D to B.P.T.'s written statement) "beyond the wages for work actually done". On days they are not employed by the Port Trust, they have complete freedom to work elsewhere and in fact whenever they find any job more lucrative they do that job and absent themselves from the Dock. In these circumstances they are not entitled to any medical or hospital facilities for themselves, or for members of their families like permanent employees. They are at best entitled to medical relief only during the period of their employment i.e. if they are taken ill in course of their employment. This is the only relief the rank casuals are entitled to.

Issue (vi)—Should watchmen be given uniforms and warm cloths during the winter and if so, whether the uniforms should consist of full-pants or shorts?

44. The demand of the Union is that the watchmen under the Bombay Port Trust should be given five sets of uniforms one of which must be woollen with full pants. The demand is opposed by the Bombay Port Trust. The workmen are given two khaki drill coats, two khaki drill shorts and one forage cap every year and one woollen armless sweater every four years. Members of the Bombay Police Force and of the Railway Police and Watch and Ward staff of the Railway Police and Watch and Ward staff of the Railways are provided with shorts and not full pants. During winter season Bombay generally maintains the moderate temperature and the cold is never biting. I accordingly hold that the uniforms that are supplied to the members of the watch and ward staff under the Bombay Port Trust are quite adequate and I do not feel inclined to enlarge upon the scale.

Issue (viii)—Should the uniforms of the watchmen and messengers be washed at Port Trust cost or whether they should be given a washing allowance?

45. The demand is that the uniforms of the watchmen and messengers should be washed at Port Trust cost or in the alternative the workmen should be paid the washing allowance. Now that these people are provided with uniforms obviously with the object that they should present a decent appearance, it is reasonable that they should always be neat and clean in their dress. My experience is that the employees under the Central Government and the West Bengal Government who are provided with uniforms are given some washing charges. In the fitness of things I direct that these employees shall be given 75 paise per month as washing allowance. This is my award. This will take effect from the date when it is enforceable under the Act.

46. In conclusion I must acknowledge the assistance I received from the representatives of the parties at the hearing

Calcutta:

14th July, 1958.

A. DAS GUPTA,

Presiding Officer,
Central Government Industrial Tribunal, Calcutta.

[LR-IV-3(6)/57-Pt.]

K. D. HAJELA, Under Secy

New Delhi, the 24th July 1958

S.O. 1549.—In pursuance of sub-section (3) of section 22 of the Industrial Disputes Act, 1947 (14 of 1947), read with the proviso to sub-section (2) of section 1 of the said Act, the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Labour No. S.R.O. 2867, dated the 24th November, 1957, namely:—

In the Table annexed to the said notification, in column (1) against serial No. 2, for the entry "Conciliation Officer (Central), Delhi", the following entry shall be substituted, namely:—

"Conciliation Officer (Central), Ambala".

[No. LRI-1(50)/58/II.]

S.O. 1550.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XVII of 1947), the Central Government hereby publishes the following award of the National Industrial Tribunal, Delhi, in the industrial dispute between the Ananda Bazar Patrika Private Limited, Calcutta and its workmen.

BEFORE SHRI P. D. VYAS, NATIONAL INDUSTRIAL TRIBUNAL, DELHI
AT BOMBAY

REFERENCE (NIT) No. 1 of 1958

Adjudication between

Ananda Bazar Patrika Private Ltd.,

Calcutta.

and

Their workmen

In the matter of an industrial dispute relating to the notices of termination given to the employees following the contemplated transfer of business undertaking by the employers.

Appearances:

Shri N. N. Bhattacharya, Manager (of), Delhi Branch for the management.

Shri Darshan Dayal, President, and Shri P N Misra, General Secretary, Hindustan Standard Workers' Union, Delhi, for the workmen.

AWARD

In exercise of the powers conferred by sub-section (1A) of section 10 of the Industrial Disputes Act, 1947 the Central Government was pleased to refer to me for adjudication an industrial dispute existing between the employers in relation to the Ananda Bazar Patrika Private Ltd., Calcutta, and their workmen under an order of the Government of India, Ministry of Labour and Employment dated 27th June 1958 [F. No. LRI-58(5)/58-II]. The dispute relates to the matters specified in the schedule annexed to the said order.

SCHEDULE

- (1) Whether the contemplated transfer of business undertaking (Hindustan Standard, Delhi Edition) by the Ananda Bazar Patrika Private Ltd., Calcutta, to Messrs Hindustan Standard (Delhi) Private Ltd. and the notices of termination given by the Ananda Bazar Patrika Private Ltd. to their employees are *malafide* and are intended to deprive the working journalists and other employees of their rights and benefits under their employment with the Ananda Bazar Patrika Private Ltd.;
- (2) Whether the notices of Ananda Bazar Patrika (Private) Ltd. dated 31st May 1958, served on all the employees of the said company in Delhi are *bonafide*, legal and valid;
- (3) What compensation, in addition to notice pay, retrenchment compensation, gratuity, and salary for earned leave is payable to the working-journalists and other employees whose services are proposed to be terminated by the notices dated 31st May 1958 and, further, what directions are necessary for the prompt payment of their dues; and
- (4) To what other relief are the said Working Journalists and employees entitled?

2 On receipt of the Government Order of reference due notices were issued to file their respective statements to the parties concerned viz: the General Secretary, Delhi Union of Journalists, the General Secretary, Hindustan Standard Workers' Union, and the Director, Ananda Bazar Patrika Private Ltd. The parties, however, report today that the matter has already been amicably settled outside the Court under an agreement dated 29th June, 1958. In view of this agreement, Annexure 'C', they do not want to further pursue or press the dispute as it can be seen from their two statements 'A' & 'B' annexed hereto. Under the circumstances the reference is not required to be heard or decided on merits and it stands disposed of as not further pursued or pressed. The papers filed by the parties including the agreement dated 29th June, 1958 marked A, B & C are annexed hereto.

P. D. VYAS.

Dated: 8th July, 1958.

Judge,
National Industrial Tribunal,
Delhi at Bombay.

ANNEXURE 'A'

BEFORE SHRI P. D. VYAS, NATIONAL TRIBUNAL, BOMBAY.

In the matter of industrial dispute vide Government of India Notification dated the 27th June, 1958.

BETWEEN

The management of Ananda Bazar Patrika (Private) Ltd., Calcutta.

AND

(1) The workers represented by the Hindusthan Standard Workers' Union, Delhi and (2) Delhi Union of Journalists.

May it please this Hon'ble Tribunal.

1. The Government of India was pleased to refer the above mentioned dispute to this Hon'ble Tribunal for adjudication.

2. That on 29th June, 1958 all the parties to the dispute have arrived at an agreement on the issues which are subject matter of adjudication before this Hon'ble Tribunal. The agreement arrived at is attached to this petition and is marked as annexure 'A'.

3. That the workers represented by the Hindusthan Standard Workers' Union and the Delhi Union of Journalists do not want to pursue or press further the dispute in view of the agreement (Annexure 'A') having been arrived at between the Ananda Bazar Patrika (Private) Ltd. and the Hindusthan Standard Workers' Union. A letter to this effect from the Delhi Union of Journalists marked Annexure 'B' is attached to this petition.

4. That the parties to the dispute respectfully pray that this Hon'ble Tribunal be pleased to make an award as per terms of the Agreement (Annexure 'A').

For Ananda Bazar Patrika (Private) Ltd.
Sd/- N. N. Bhattacharya, Manager (of)
Delhi Branch.

For Hindusthan Standard Workers' Union.
Sd/- Darshan Dayal, President.

For Delhi Union of Journalists.
Sd/- B. R. Vats. General Secretary.

Delhi.

the 29th June, 1958.

Recorded

Sd/- P. D. Vyas

8-7-1958.

ANNEXURE 'B'

BEFORE SHRI P. D. VYAS, NATIONAL TRIBUNAL, BOMBAY.

In the matter of industrial dispute vide Government of India Notification dated the 27th June, 1958.

BETWEEN

The management of Ananda Bazar Patrika (Private) Ltd., Calcutta.

AND

The workers represented by the Hindusthan Standard Workers' Union, Delhi and the Delhi Union of Journalists.

May it please this Hon'ble Tribunal.

1. The Government of India was pleased to refer the above mentioned dispute to this Hon'ble Tribunal for adjudication

2. In view of the fact that the management of Ananda Bazar Patrika Private Limited, Calcutta and the Workers represented by the Hindusthan Standard

Workers' Union, Delhi have come to an agreed settlement of the issues under dispute, the Delhi Union of Journalists hereby informs this Hon'ble Tribunal that it does not want to pursue or press further the said dispute.

(Sd.) B. R. VATS,

General Secretary,
Delhi Union of Journalists,
Flat 29, New Central Market,
Connaught Circus, New Delhi.

New Delhi,

29th June, 1958.

Recorded

Sd/- P. D. Vyas

8-7-1958.

ANNEXURE 'C'

AGREEMENT

Name of parties:

Representing Employers: Ananda Bazar Patrika Private Limited.

Representing Employees: 1. Hindusthan Standard Workers' Union.

2. Delhi Union of Journalists.

Terms of Settlement

ON THIS 29TH DAY OF JUNE, 1958 IT IS HEREBY AGREED BETWEEN THE PARTIES AS UNDER:

1. The Ananda Bazar Patrika Private Limited agrees to deposit the workmen's contribution to Provident Fund and an equal amount of the same as its share towards the Provident Fund with the Government within a reasonable period.

2. The Ananda Bazar Patrika Private Limited hereby agrees to pay the amounts due to all categories of employees on account of notice pay, retrenchment compensation, gratuity and salary for unutilised leave up to the 30th June, 1958, if and when the services of any one or all of them are terminated by the Hindusthan Standard (Delhi) Private Limited within three years from the date of this agreement and also in case of retrenchment or closure of Hindusthan Standard (Delhi) Private Limited, within the said period of three years from the date of this Agreement. The Ananda Bazar Patrika Private Limited further agrees that the said dues will also be payable to an employee if he resigns on or before the 21st July, 1958 from the Hindusthan Standard (Delhi) Private Limited.

3. The Employees of the Ananda Bazar Patrika Private Limited who agree to accept employment with the Hindusthan Standard (Delhi) Private Limited in terms of the agreement entered into by the two companies will be entitled to continuity of service notwithstanding what is contained in para 2 above.

4. The employees who do not accept employment in the Hindusthan Standard (Delhi) Private Limited in terms of the Agreement entered into between the Ananda Bazar Patrika Private Limited and the Hindusthan Standard (Delhi) Private Limited will be paid their notice pay, retrenchment compensation, gratuity, salary for unutilised leave etc. due to them on or before 7th July, 1958, subject, however, to the provision contained in Clause (8) of this settlement.

5. This agreement is without prejudice to the rights of the employees of the Hindusthan Standard (Delhi) Private Limited to realise any or all of their dues from that company which may hereafter accrue to them against the Hindusthan Standard (Delhi) Private Limited arising out of their service under that company.

6. The terms of settlement will be binding on the parties till such time as negotiations under this Agreement subsist.

7. (a) This Agreement will not in any way prejudicially affect the interests, benefits and rights of working journalists which may accrue to them under the decisions of the Wage Committee set up by the Government of India under the Working Journalists (Fixation of Rates of Wages) Ordinance 1958 dated 14th June, 1958.

(b) The Ananda Bazar Patrika private Limited will be responsible for the legal obligations arising out of the fixation of rates of wages by the Government up to 30th June, 1958.

8. In case of any difference, doubt or difficulty in respect of the interpretation of any term of this Agreement the parties hereto will jointly request the Government for reference of the same to an Industrial Tribunal and the decision of the Tribunal will be binding on the parties concerned.

Witnesses:

1. M. K. Ramamuthi,
2. A. K. Gupta,

For and on behalf of Ananda Bazar
Patrika Private Limited.

Sd/- N. N. Bhattacharya.

For and on behalf of Hindusthan
Standard Workers' Union.
Sd/- Darshan Dayal, President.

Sd/- P. N. Misra, General Secretary.

Recorded

Sd/- P. D. Vyas

8-7-1958.

[No. LRI-58(5)/58]

S.O. 1551.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the South Bulliari Kenduadli Colliery of Messrs. East India Coal Co. Ltd., and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD.

REFERENCE No. 9 OF 1958

Employers in relation to South Bulliari Kenduadli colliery of Messrs. East Indian Coal Co. Ltd.

and

Their workmen represented by Bihar Colliery Mazdoor Sangh

Dated the 1st July 1958

PRESENT.

Shri Salim M. Merchant, B.A.L.L.B.—

Chairman

Appearances:

Shri S. S. Mukherjea, Advocate.

with Shri P. K. Majumdar,

Chief Personnel Officer—for the employer.

Shri D. Narsingh, Advocate—

for the Bihar Colliery Mazdoor Sangh

State: Bihar

Industry: Coal

AWARD

The Government of India, in the Ministry of Labour and Employment by Order No. L.R. II/55-1(28)/57 dated 8th March 1958, made in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, was pleased to refer the industrial dispute between the parties above-named to me for adjudication, in respect of the following matter specified in the schedule to the said order:—

"Whether in view of the provisions contained in paragraph 701 of the Award of the All India Industrial Tribunal (Colliery Disputes) as modified by paragraph 351(1) of the decision of the Labour Appellate

Tribunal, the curtailment of paid festival holidays from 9 to 7 in a year after the introduction of the said award as modified is permissible in terms of the said award."

2. After the usual notices were issued upon the parties, the Bihar Colliery Mazdoor Sangh, (hereinafter referred to as the Union) which represents the workmen of this colliery, filed its written statement of claim on 7th April, 1958 and the company filed its written statement in reply on 1st May 1958, after which the dispute was heard on 4th June 1958 and 9th June 1958.

3. It is admitted that the dispute under reference is confined to the 17 monthly paid and a small number of weekly workmen employed in the Khoira workshop of this colliery. According to the Sangh, prior to coming into force on 26th May 1956 of the Award of the All India Industrial Tribunal (Colliery Disputes) (hereinafter referred to as the Majumdar Award), these workmen, over a long number of years, had enjoyed annually the benefit of the following nine festival holidays:—

| | | |
|--------------------|-------|--------------------------|
| 1. Moharrum | 1 day | |
| 2. Basant Panchami | 1 " | |
| 3. Pitha Parab | 1 " | |
| 4. Holi | 1 " | |
| 5. Durga Puja | 2 " | |
| 6. Diwali | 1 " | |
| 7. Id (Id-ul-Fitr) | 1 " | For Muslim employes only |
| 8. Id-uz-Zuha | 1 " | |

| | |
|-------|--------|
| Total | 9 days |
|-------|--------|

4. The Majumdar Award granted 7 paid festival holidays in the year, of which (1) Republic Day, (2) Independence Day and (3) Gandhi Jayanti, being the three National holidays were specifically directed to be common paid holidays for all collieries. As regards the remaining 4 holidays the Tribunal directed that they should be fixed by the collieries in consultation with the Unions, the object being to provide for variations in local customs and practices. The Majumdar Tribunal, however, did not give any directions as regards the rate of pay to be paid for work on the paid holidays, as it felt that it had no jurisdiction to do so. By para. 700 of its award the Majumdar Tribunal directed that when the existing wages in any colliery happened to be higher than the total emoluments fixed by it such wages should not be adversely affected. By para. 701 of its Award the Majumdar Tribunal directed that the workmen would be entitled to retain the benefit of any existing grade of pay that would carry them higher than the grades fixed by its Award. At the end of para. 701 the Tribunal observed and directed as follows:—

"The object of these provisions is that the existing workmen should not in any manner lose by our award."

This is the direction of the Majumdar Award referred to in the Government Order of Reference.

5. In appeal before the Labour Appellate Tribunal, the workmen claimed larger number of paid holidays in the year than the seven fixed by the Majumdar Award, but the Labour Appellate Tribunal held that an appeal on the point was not competent under Section 7 of the Industrial Disputes (Appellate Tribunal) Act, 1950, but it held that the Majumdar Tribunal had erred in holding that it had no jurisdiction to fix the rate of pay for work done on the paid festival holidays. The Labour Appellate Tribunal, therefore, directed that for working on paid festival holidays, a workman should be paid his normal wages plus one and a half times his normal wages. By paragraph 351 of its decision the Labour Appellate Tribunal gave certain "directions and explanations to obviate doubts" and by para. 351 (1), it directed as follows:—

"All existing privileges and amenities including free housing, free supply of coal, medical and educational facilities, sick allowance, kerosene oil, mustard oil, baskets and tools, uniforms, servant allowance etc. should continue as heretofore."

This is the direction of the Labour Appellate Tribunal to which reference is made in the Government Order of Reference.

6. It is admitted that after the Majumdar Award came into force on 26th May, 1956, the management stopped granting the nine holidays which it was granting

to the Khoira workshop employees and started granting them, along with the workmen employed in its colliery, the following seven holidays:—

| | |
|---------------------|--------|
| 1. Republic Day | 1 day |
| 2. Holi | 1 " |
| 3. Independence day | 1 " |
| 4. Gandhi Jayanti | 1 " |
| 5. Durga Puja | 2 " |
| 6. Diwali | 1 " |
| Total | 7 days |

It may also be noticed that in an earlier Industrial Dispute the Central Government Industrial Tribunal at Dhanbad had awarded 2 paid festival Holidays for (1) Republic Day and (2) Independence Day and that on appeal the Award was confirmed by a decision of a Bench of the Labour Appellate Tribunal. As will be seen these two festival holidays are included in the seven paid festival holidays awarded by the Majumdar Tribunal.

7 The union's case is that as over an un-interrupted period of 15 years, the company had been granting the workmen of the Khoira workshop annually the said 9 festival holidays, by usage and custom that practice had developed into a right of the workmen and had become an implied term and condition of their service prior to the Majumdar Award coming into force. They further contend that under the directions contained in para. 701 of the Majumdar Award as modified by the directions contained in para. 351 (1) of the decision of the Labour Appellate Tribunal, they were entitled to five additional holidays, namely (1) Moharrum, (2) Basant Panchami, (3) Pitha Parab, (4) Id-ul-Fitr and (5) Id-uz-Zuha, which they were enjoying before the Majumdar Award came into operation on 26th May 1956. They further contend that the management had wrongfully stopped these holidays from 26th May 1956 and pray that the management should be directed to restore these five holidays and to further direct to pay the workmen concerned their wages for such of the holidays in question which had been denied to them since 26th May 1956.

8 The company in its written statement has denied that there was any old practice or privilege by which the workmen of the Khoira workshop were entitled as of right to avail themselves annually of the said nine festival holidays with pay or at all. According to the company the practice was that the Khoira workshop employees desiring leave on any one of the nine festival holidays used to apply through the head of their department to the superintendent of the colliery for leave, which was granted on the condition that the workmen should be available on call and attend to the urgent colliery jobs and that when exigencies of work so required, such leave was refused, that the workshop employees did not enjoy the festival holidays as of right, but had to apply for leave and wait for the applicant on to be granted; that for working on such festival holidays no over-time or additional payment was ever made. The company has relied upon its letter dated 16th January 1956 addressed to Shri Kanti Mehta, the General Secretary of the Sangh (Annexure A to the company's written statement) written on the occasion when the workshop workmen had absented themselves from work on the Pitha Parab festival of that year. In that letter the Superintendent had stated:—

"In the past the staff used to apply for leave through the head of the department which I used to sanction on condition that the staff will be available on call and important colliery jobs would have to be attended to. The whole thing was subject to my approval and sanction, which cannot be taken as a matter of right or practice or custom, as has been construed this time. In fact, there were cases in the past when on festive occasions the workers had to attend breakdown jobs and they had done so without any grudge or asking for any overtime. All these things were taken departmentally and the leave was subject to my approval and sanction, as already stated. This time I did not like to sanction leave to the entire staff and asked them to apply individually through the Chief Engineer or the Manager, South Bullari/Kendwadhi colliery to those who were desirous to participate in the Pitha Parab. But they defied the orders communicated to them by the C.E. and the Manager and they had taken the risk of leaving the workshop in a body and absented themselves from the work.

In this connection I would like to state that Bararee colliery workshop worked as usual yesterday, as leave was refused by me to the workmen."

The management has urged that as the workmen of the Khoira Workshop did not enjoy any of these 9 festival holidays as of right, there was no curtailment of any of their rights and the directions contained in para. 701 of the Majumdar Award as modified by the directions contained in para. 351 (1) of the decision of the Labour Appellate Tribunal, had no application. The management has therefore prayed that the demand under reference should be rejected.

9. Before dealing with the dispute on its merits, it is necessary first to deal with a legal objection as to the validity of the reference which the company has raised in its written statement. The objection is that because the Government had in its letter dated 12th March 1957 (Annexure B to the company's written statement) stated that it did not consider the dispute fit for reference to a Tribunal for adjudication, the subsequent reference of the dispute to adjudication on 8th March 1958 under Section 10(1) (d) of the Industrial Disputes Act was invalid. In support of this contention, Shri S. S. Mukherjea, the learned Advocate for the company has sought to rely upon the decision of the High Court of Patna in the case of the Bata Shoe Co. Ltd. and State of Bihar and others (1956-II LLJ p. 358 at page 362). In my opinion that decision has no application as in that case the question for determination was whether the Government had powers under Section 10 of the Act to withdraw a reference after it has been made to the Industrial Tribunal and Their Lordships held that there is no express provision under Section 10 or any other section of the Industrial Disputes Act empowering the appropriate Government to withdraw a reference after it had been made to the Industrial Tribunal and that the question whether the Government had any such implied power must be answered with reference to the context and subject matter of the statute. In this case there was no earlier reference but only an expression of opinion by the appropriate Government—evidently under Section 12(5) of the Act—that the dispute was not fit for reference to a Tribunal for adjudication. Later, Government revised that opinion and exercised its powers under Section 10 of the Act and referred the dispute for adjudication to this Tribunal. Shri D. Narsingh, the learned Advocate for the union, has relied upon two decisions of the High Court of Madras in the cases of (1) Radhakrishna Mills vs. The State of Madras (1956-ILLJ p. 221) and (2) Sri Rama Vilas Service Limited vs. the State of Madras and others (1956-ILLJ 488) which directly cover the point at issue. The Madras High Court in the latter case held that the issue of a reference under section 10(1) (c) of the Industrial Disputes Act is an administrative act performed by the Government. If there was an industrial dispute, the factual existence of which could not really be in dispute a determination afresh by the Government of the question of the expediency of referring such a dispute for adjudication under Section 10(1) (c) of the Act, did not amount to review of any question judicially determined previously and hence a prior order of the Government under Section 12(5), which refused to refer for adjudication a given dispute could not affect the jurisdiction of the Government to exercise the statutory powers conferred upon it by Section 10(1)(c) of the Act on any subsequent occasion. As in this case also there is no controversy between the parties as to the factual existence of the dispute, I hold that the reference made by Government is a valid one.

10. Now, with regard to the merits of the demand, the first question that falls for determination is whether under the practice in force in the company, the workmen of the Khoira workshop had acquired a right to claim the 9 festival holidays in the year as an implied condition of their service. It is admitted that there is no provision for grant of any of these 9 holidays in the standing orders of the company; nor is the claim based on any other written agreement. But the claim for the holidays is based on the existence of a long standing usage or practice which had developed into an implied term and condition of the service of the workmen employed in the Khoira workshop. Now, as held by the Labour Appellate Tribunal in the case of the Mahalaçmi Cotton Mills Vs. its workmen (1952-II, LLJ p. 633 at p. 637), before a past practice may lead to inference of implied agreement, it must be un-broken and for a sufficient long period to exclude the hypothesis that the benefit had been granted out of bounty. It is not possible to say in general terms what should be the length of the period. That would depend upon the circumstances of each particular case. The workmen claim that this practice had been in force for a period extending over 15 years. The company has not specifically denied this but has suggested that it had not extended over a period of 10 to 11 years. But the important point is that the workmen were not granted these holidays, each year when the holidays occurred. They had to make a joint written application applying for the holiday and the application was submitted through the manager of the colliery to the Superintendent of the colliery and it was only after the Superintendent had considered the application that the holiday was granted. The forms of the application are on record [Exs. W-A(1) to W-A(3)]. It is also not as if the application was always granted. In some years for certain holidays the application was not granted and all the workshop employees had to work on

those holidays. The company in para. 7 of its written statement has specifically stated that due to exigencies of colliery work such leave had also been refused in the past. The union has also admitted this inasmuch as it has admitted in para. 19 of its written statement that the applications were invariably granted "except when there was a grave emergency which was very rare." The company at my request has filed a statement showing the holidays which were granted by it between 1951 to 1956 before the Majumdar Award came into force on 20th May 1956. The statement shows that for Diwali in 1951, which fell on 29th October 1951, Durga Puja in 1952, which fell on 26th September 1952 and Basant Panchami in 1956 which fell on 16th February 1956, the workmen were not granted holidays but had been made to work. It does, therefore, appear that the making of the application was not a mere formality as argued by Shri D. Narsingh but that after the application was made, the Superintendent used to apply his mind to the application and only when he granted the application, the workmen were given the holiday. Another point to bear in mind is that even when the application was granted, the workmen had to be available on duty and it is not denied that on many occasions such of the workmen who were asked to attend had attended and worked and for such attendance they were not paid any over-time or additional wages. Besides, these holidays were with pay only for the 17 monthly paid workmen and without pay for the weekly paid workmen. These holidays cannot therefore be classified as on the same footing as the 7 paid holidays awarded by the Majumdar Tribunal. Taking all these facts into consideration I am not satisfied that the workmen have established that it was an implied condition of their service that they were entitled as of right to 9 holidays in the year.

11. There also appears to be some confusion about the 9 holidays referred to in the order of reference. The Order of reference speaks of the curtailment of 9 holidays to 7. The union in its written statement has claimed for the restoration of 5 holidays as stated earlier and at the hearing Shri Narsingh argued that taking into consideration the 2 National holidays which had been granted by the Central Government Tribunal, the workmen were in fact entitled to restoration of more than the 5 holidays claimed in the written statement. Besides the 9 holidays granted by the company were not granted to all its workmen, 2 of the holidays, those on the two Id Festivals—were only sectional holidays enjoyed only by the Muslim workmen. It is, therefore, not correct to say that there were 9 holidays in the factory for all the workmen which had been reduced to 7.

12. At the hearing Shri Narsingh argued that a direction be given that the old practice, of the workmen making a joint application and the holiday being granted only when the application was granted by the Superintendent, be allowed to be continued. He urged that under the directions of the Majumdar Award and the Labour Appellate Tribunal the old practice should be directed to be retained and that the workmen would be prepared to work on such holidays for emergent work. No doubt, under the directions of the Labour Appellate Tribunal contained in para. 351(1) of its decision, all existing privileges which were better than those granted by the Majumdar Award as modified by the Labour Appellate Tribunal have to be continued. But there would be no air of reality to such a direction as if the Superintendent refused the application, the workmen would not be entitled to any benefit at all. Besides, it was stated at the hearing that the Khoira workshop is shortly to be closed and merged with the Bararee colliery workshop, where these benefits are not granted. I therefore feel there would be no justification for making such a direction.

13. In the result, I hold that it was permissible to the management to grant the workshop workmen the 7 holidays after the Majumdar Award came into force.

14. There will be no order as to costs.

SALIM M. MERCHANT,

Chairman,
Central Govt. Industrial Tribunal,
Dhanbad.

[No. LRII/55-1(28)/58.]

New Delhi, the 29th July 1958

S.O. 1552.—In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (14 of 1947), read with the proviso to sub-section (2) of section 1 of the said Act, the Central Government hereby makes the following amendments

in the notification of the Government of India in the Ministry of Labour No. S.R.O. 2866, dated the 24th November, 1956, namely:—

In the Table annexed to the said notification,

(a) in column (1) against serial No. 3, for the entry "Conciliation Officer (Central), Delhi," the following entry shall be substituted, namely:—

"Conciliation Officer (Central), Ambala".

(b) serial No. 4 relating to the Labour Inspector (Central), Ferozpur, and the entry relating thereto shall be omitted.

[No. LRI-1(50)/58/I.]

ORDER

New Delhi, the 23rd July 1958

S.O. 1553.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to Bansdeopur Colliery of New Bansdeopur Coal Co. Ltd., P.O. Kusunda (Dhanbad) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

THE SCHEDULE

Whether the management of Bansdeopur Colliery of New Bansdeopur Coal Co. Ltd., P.O. Kusunda (Dhanbad) was justified in dismissing Shri B. K. Banerjee, a Despatch Clerk. If not, what relief he is entitled to.

[No. LR11/2(95)/58.]

A. L. HANDA, Under Secy.

ERRATUM

In S.O. No. 1233, dated the 18th June, 1958, of the Ministry of Labour and Employment notification, published in the Gazette of India, Part II-3 (ii), dated the 28th June, 1958 at pages 1105—1108 the following corrections are to be made:—

| Documents | Printed on Page | For | Read |
|--|-----------------|--|--|
| Form A. Application under sub-section (2) of Section 10 of the Industrial Disputes Act, 1947. | 1106 | For and on behalf of <i>National Insurance Co., Ltd.</i> (Sd.) Vice President. | For and on behalf of National Insurance Employees' Union (Sd.) Vice President. |
| Statement under rule 3 of Industrial Disputes (Central) Rules, 1947. | 1107 | For and on behalf of <i>National Insurance Co., Ltd.</i> (Sd.) Secretary. (Sd.) Vice President. | For and on behalf of National Insurance Employees' Union (Sd.) Secretary. (Sd.) Vice President. |
| Copy of resolution adopted in the extraordinary general meeting of the Union. | 1107 | For and on behalf of <i>National Insurance Co. Ltd.</i> (Sd.) Secretary. (Sd.) Vice President | For and on behalf of National Insurance Employees' Union (Sd.) Secretary. (Sd.) Vice President. |
| Form A— Application under subsection (2) of section 10 of the Industrial Disputes Act, 1947. | 1107 | For and on behalf of <i>National Insurance Employees' Union</i> (Sd.) Secy. (Adm.) | For and on behalf of National Insurance Co., Ltd. (Sd.) Secretary, (adm.) |
| Statement under rule 3 of Industrial Disputes (Central) Rules '47. | 1108 | For and on behalf of <i>National Insurance Employees' Union</i> (Sd.) Secy. (Adm.) | For and on behalf of National Insurance Co., Ltd. (Sd.) Secretary. (adm.) |
| Copy of letter of Shri S. M. Khaitan authorising Mr. R. S. Agarwal. | 1108 | For and on behalf of <i>National Insurance Employees' Union</i> (Sd.) Secy. (Adm.) | For and on behalf of National Insurance Co., Ltd., (Sd.) Secy. (adm.) |

WORKING JOURNALISTS WAGE COMMITTEE**ORDERS**

New Delhi, the 18th July 1958

S.O. 1554.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri A. Satyanarayana,
Income-tax Officer,
Companies Circle 1(3),
Aayakar Bhavan,
Queens Road, BOMBAY,

subject to such directions as the Committee may from time to time issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

- (1) The Bombay Chronicle Co. (Private) Ltd., Bombay,
- (2) The Bombay Samachar (Private) Ltd., Bombay,
- (3) The Bombay Associated Newspapers (Private) Ltd., Bombay,
- (4) Messrs. Bennet Coleman & Co. Ltd., Bombay,
- (5) The Saurashtra Trust, Bombay,
- (6) The Indian National Press (Bombay) Private Ltd., Bombay, and
- (7) The Press Trust of India Ltd., Bombay.

[No. J.C. 6(3)/58.]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1555.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri N. N. Rampal,
Income-tax Officer,
'C' Ward, (Section II),
Aayakar Bhavan,
Queens Road, BOMBAY,

subject to such directions as the Committee may from time to time issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

- (1) The Bombay Chronicle Co. (Private) Ltd., Bombay,
- (2) The Bombay Samachar (Private) Ltd., Bombay,
- (3) The Bombay Associated Newspapers (Private) Ltd., Bombay,
- (4) Messrs. Bennet Coleman & Co. Ltd., Bombay,
- (5) The Saurashtra Trust, Bombay,
- (6) The Indian National Press (Bombay) Private Ltd., Bombay, and
- (7) The Press Trust of India Ltd., Bombay.

[No. J.C. 6(4)/58.]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1556.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri V. G. Shinde,
First Additional Income-tax Officer,
Special Investigation Branch,
Aayakar Bhavan,
Queens Road, BOMBAY,

subject to such directions as the Committee may from time to time issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

- (1) The Bombay Chronicle Co (Private) Ltd, Bombay,
- (2) The Bombay Samachar (Private) Ltd, Bombay,
- (3) The Bombay Associated Newspapers (Private) Ltd, Bombay,
- (4) Messrs Bennet Coleman & Co Ltd, Bombay,
- (5) The Saurashtra Trust, Bombay,
- (6) The Indian National Press (Bombay) Private Ltd, Bombay, and
- (7) The Press Trust of India Ltd, Bombay

[No JC-6(5)/58]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,
G VENKATASUBRAMANIAM, Secy

S.O. 1557.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri A. Rama Rao,
Additional Income tax Officer,
Special Circle,
Bangalore,

subject to such directions as the Committee may from time to time issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

- (1) The Printers (Mysore) Private Ltd, Bangalore, and
- (2) Shri M S Ramaiah & Others, Bangalore

[No JC 6(6)/58]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,
G VENKATASUBRAMANIAM, Secy

S.O. 1558.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri A Sarkar,
Additional Income-tax Officer,
Companies District III,
3, Government Place West,
Calcutta,

subject to such directions as the Committee may from time to time issue to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

- (1) The Statesman (Private) Ltd, Calcutta,
- (2) The Amrita Bazar Patrika Private Ltd, Calcutta,
- (3) The Ananda Bazar Patrika Private Ltd, Calcutta, and
- (4) Shri K C Agarwal & Others, Calcutta

[No JC-6(7)/58]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,
G VENKATASUBRAMANIAM, Secy

S.O. 1559.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri B Venkataratnam,
Additional Income-tax Officer,
Companies District I,
3, Government Place West,
Calcutta,

subject to such directions as the Committee may from time to time issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

- (1) The Statesman (Private) Ltd., Calcutta,
- (2) The Amrita Bazar Patrika Private Ltd., Calcutta,
- (3) The Ananda Bazar Patrika Private Ltd., Calcutta, and
- (4) Shri K. C. Agarwal & Others, Calcutta,

[No. JC-6(8)/58.]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1560.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri S. I. Tripathi,
Income-tax Officer,
Special Investigation Branch,
Nagpur,

subject to such directions as the Committee may from time to time issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

- (1) The Nava Samaj Ltd., Nagpur, and
- (2) Shree Shiv-Raj Prakashan Ltd., Nagpur.

[No. JC-6(9)/58.]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1561.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri J. M. Bhatia,
Income-tax Officer,
'A' Ward,
Jabalpur,

subject to such directions as the Committee may from time to time issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

Shri K. G. Maheswari,
Nava-Bharai Bhavan,
Nagpur—2.

[No. JC-6(10)/58.]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1562.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri Ram Ratan Gupta,
Income-tax Officer,
Estate Duty cum Income-tax Circle,
Central Revenues Building,
Hardinge Bridge,
New Delhi,

subject to such directions as the Committee may from time to time issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

- (1) The Hindustan Times Ltd., New Delhi,
- (2) Shri K. Narendra & Others, New Delhi,

- (3) The Daily Tej Private Ltd., Delhi, and
- (4) The Tribune Trust, Ambala.

[No. JC-6(11)/58.]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1653.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri R. Kapur, Income-tax Officer, B-VII Dist., Central Revenues Building, Hardinge Bridge, New Delhi,

subject to such directions as the Committee may, from time to time, issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

- (1) The Hindustan Times Ltd., New Delhi,
- (2) Shri K. Narendra & Others, New Delhi.
- (3) The Daily Tej Private Ltd., Delhi, and
- (4) The Tribune Trust, Ambala.

[No. JC-6(12)/58.]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1564.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri H. P. Mukherjee, Income-tax Officer, Special Circle, Patna.

subject to such directions as the Committee may, from time to time, issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

The Newspapers and Publications (Pte) Ltd., Mazharul Haque Path, Patna.

[No. J.C.-6(13)/58.]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1565.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958) and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri K. Singh, Income-tax Officer, 'A' Ward, Jamshedpur,

subject to such directions as the Committee may, from time to time, issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

- (1) Prajatantra Praja Samiti, Prajatantra Building, Beharibhag, Cuttack-2.
- (2) The Servants of the People Society, 11, Electric Lane, New Delhi.

[No. J.C.-6(14)/58.]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1566.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of

1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri S. V. Subha Rao, Income-tax Officer, Special Estate Duty *cum* Income-tax Circle, Hyderabad,

subject to such directions as the Committee may, from time to time, issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

The Golconda Publication Ltd., A-9-820, Hyderabad.

[No. J.C.-6(15)/58.]

For and on behalf of
WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1567.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri V. Vanchi, I Additional Income-tax Officer, Colmbatore,

subject to such directions as the Committee may, from time to time, issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

The Ramakrishna Industrials (Private) Ltd., Colmbatore.

[No. J.C.-6(16)/58.]

For and on behalf of
WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1568.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri T. C. Parameswara Menon, Income-tax Officer, Trivandrum,

subject to such directions as the Committee may, from time to time, issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

(1) Very Rev. F. Provincial, T.O.C.D., Kottayam.

(2) Messrs. A. V. George & Co., Ltd., Kottayam, and

(3) The Mathrubhumi Printing & Publishing Co. Ltd., Kozhikode.

[No. JC-6(17)/58.]

For and on behalf of
WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1569.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri A. A. Kazi, Income-tax Officer, Special Circle I, Ward 'B', Income-tax Building, Ahmedabad,

subject to such directions as the Committee may, from time to time, issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

(1) The Sandesh Ltd., Sandesh Building, Cheekanta Road, Ahmedabad

(2) Shri R. C. Sheth and Others, Revdi Bazar, Ahmedabad-2.

[No. JC-6(18)/58.]

For and on behalf of
WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1570.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri G. N. Gadgil, Income-tax Officer, 'A' Ward, Baroda,

subject to such directions as the Committee may, from time to time, issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

Shri R. C. Sheth and Others.

[No. JC-6(19)/58.]

For and on behalf of
WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1571.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri R. N. Bagchi, Income-tax Officer, Gauhati,

subject to such directions as the Committee may, from time to time, issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

(1) Shri R. G. Baruah and Others, P.O. Assam Tribune, Gauhati.

(2) Shri R. K. Bazboruah and Others, Chenikuthi, Gauhati.

[No. JC-6(20)/58.]

For and on behalf of
WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1572.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri M. Paul Raj,
Additional Income-tax Officer,
City Circle II,
Madras,

subject to such directions as the Committee may, from time to time, issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

(1) Messrs. Kasturi & Sons (Private) Ltd.,
Kasturi Buildings,
Mount Road, Madras 2.

(2) The Associated Publishers (Madras) Private Ltd
Mall Buildings,
201, Mount Road, Madras 2

(3) The Swadesamltran Ltd.,
Victory House, Madras 2

(4) The Express Newspapers (Private) Ltd.,
Post Box No. 333,
Mount Road, Madras 2, and

(5) Messrs. Nageswara Rao Estates (Private) Ltd.,
6 & 7, Thambu Chetty Street,
Madras 1.

[No. JC-6(21)/58.]

For and on behalf of
WORKING JOURNALISTS WAGE COMMITTEE,

G. VENKATASUBRAMANIAM, Secy.

S.O. 1573.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri Ram Raj Singh,
Income-tax Officer,
'B' Ward,
Lucknow,

subject to such directions as the Committee may, from time to time, issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

The Associated Journals Ltd.,
1, Bisheshwar Nath Road,
Lucknow.

[No. JC-6(22)/58.]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,
G. VENKATASUBRAMANIAM, Secy.

S.O. 1574.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises

Shri D. Moinuddin Khan,
II Additional Income-tax Officer,
City Circle I,
Madras,

subject to such directions as the Committee may, from time to time, issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

- (1) Messrs. Kasturi & Sons (Private) Ltd., Madras.
- (2) The Associated Publishers (Madras) Private Ltd.,
- (3) The Swadesamitran Ltd., Madras,
- (4) The Express Newspapers (Private) Ltd., and
- (5) Messrs. Nageswara Rao Estates (Private) Ltd., Madras

[No. JC-6(23)/58.]

For and on behalf of

WORKING JOURNALISTS WAGE COMMITTEE,
G. VENKATASUBRAMANIAM, Secy.

S.O. 1575.—In exercise of the powers conferred by sub-section (3) of section 5 of the Working Journalists (Fixation of Rates of Wages) Ordinance, 1958 (3 of 1958), and for the purposes of the said Ordinance, the Committee appointed under sub-section (1) of section 3 of the said Ordinance (hereinafter referred to as "the Committee"), hereby authorises.

Shri I. K. Pathan,
Income-tax Officer,
'A' Ward,
Poona,

subject to such directions as the Committee may, from time to time, issue, to examine the accounts and documents of, and obtain statements from, the newspaper establishments under the control of—

- (1) The Sakal Papers (Private) Ltd., Poona, and
- (2) Shri N. L. Kokate, Poona.

[No. JC-8(24)/58.]

For and on behalf of
WORKING JOURNALISTS WAGE COMMITTEE,
G. VENKATASUBRAMANIAM, Secy.